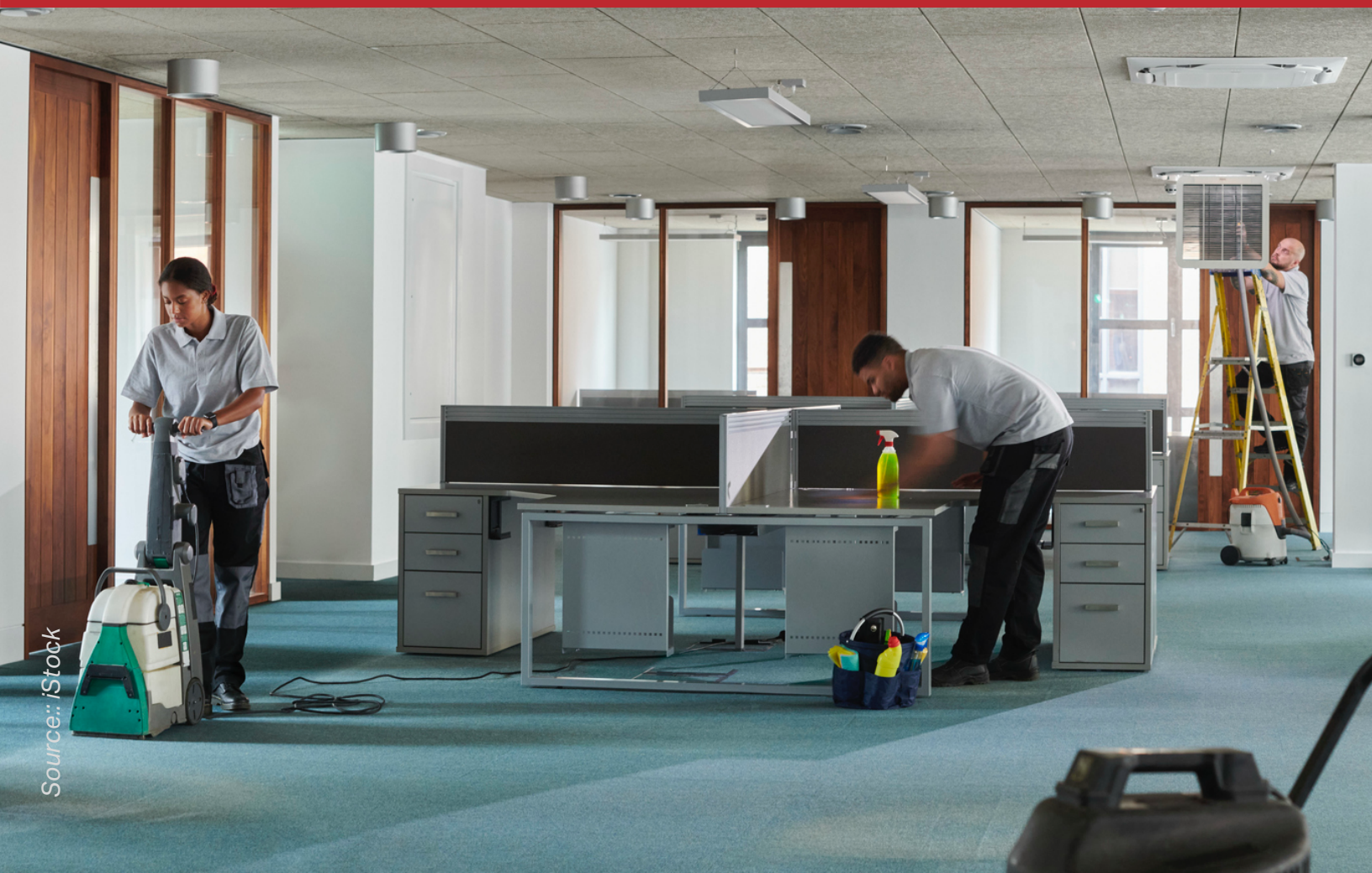
NELP NATIONAL EMPLOYMENT LAW PROJECT

Report | January 2025

Below the Floor:
Court-Ordered Community Service Lacks Labor Standards

By Han Lu & Noah Zatz



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About NELP

About the National Employment Law Project: Founded in 1969, the National Employment Law Project (NELP) is a nonprofit advocacy organization dedicated to building a just and inclusive economy where all workers have expansive rights and thrive in good jobs. Together with local, state, and national partners, NELP advances its mission through transformative legal and policy solutions, research, capacity-building, and communications. NELP is the leading national nonprofit working at the federal, state, and local levels to create a good-jobs economy. Learn more at www.nelp.org.

Acknowledgements

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This is part two of a series that uncovers coerced labor in community service programs as operated via the criminal legal system, a widely recognized engine of anti-Black structural racism and economic inequality. In this brief we survey labor protections in community service programs across the states, with a focus on the undermining of labor standards. We find that while the premise and purpose of community service programs is that people are working*, community service workers are broadly excluded from hard-fought and basic* worker protections*. The exclusion of community service work programs from standard protections is a further example–alongside more familiar examples of prison labor or incarcerated emergency responders like wildland firefighters–of how criminalization directly creates, manages, or brokers unprotected and forced labor. These work programs undermine labor standards for all workers. Our recommendations aim to expand worker protections, combat structural racism, and build worker power.*

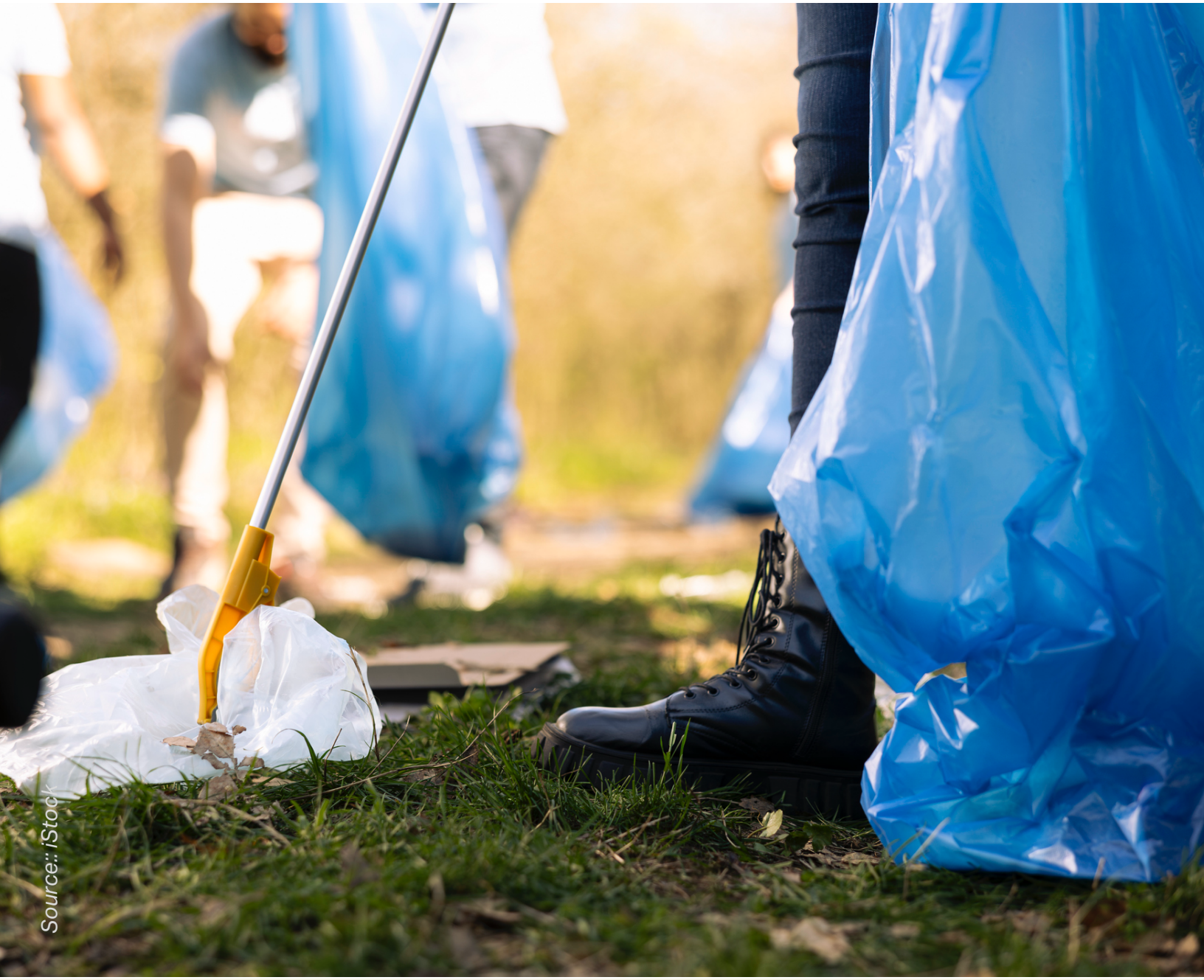
Introduction

The twin expansions of fissured work and anti-Black criminalization over the last 60 years in the U.S. have contributed to the rise of workplaces directly created, managed, or brokered by the criminal legal system. In these settings, workers labor under the threat of incarceration if they are deemed noncompliant.[1] This brief is the second in a series examining one such setting: court-ordered community service work programs. The first brief set out our analysis of how such programs are best understood as low-road labor supply systems, expanding anti-Black criminalization into the workplace, lowering labor standards for all, and undermining workplace organizing.[2] Indeed, the euphemism "community service" and its association with volunteer work itself obscures how these fundamentally coercive work programs operate at a compounding intersection of anti-Black criminalization and economic inequality.

This brief presents detailed findings from our examination of labor protections and lack thereof in state statutes governing community service. Community service work programs are ubiquitous. All 50 states and the District of Columbia (hereinafter "states" for simplicity) have statutes authorizing them in at least some criminal cases, and 42 states authorize such work programs as a way to "work off" court-ordered debt.[3] Community service programs order unpaid workers to labor in both public and private workplaces, alongside conventional employees, and across many types of work, including nonprofits; data entry; warehousing; custodial services; food handling; park and roads maintenance; and landscaping. While difficult to identify the precise number of community service workers nationally, one study found that over 100,000 people in Los Angeles County register to perform court-mandated community service each year.[4] There is no reason to think Los Angeles County is an outlier.

Despite the ubiquity of court-ordered community service, systematic attempts to understand their operation and legal structure have been limited, especially with regard to labor protections.[5] In this 50+ state survey, we examine where and how community

service workers are included in protections characteristic of general labor standards like wage rates, workplace safety, and other protections. **The premise and purpose of community service programs is that people are *working*, but are they protected as *workers*?** Without basic labor rights, community service programs are a recipe for exploitation, using the criminal legal system's power to punish as a means to deliver a labor supply with minimal protection from labor law and maximum vulnerability through criminal law.



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What are community service work programs?

Broadly, "community service" refers to court-ordered, unpaid work programs that operate at the threat of incarceration, reincarceration, and/or prosecution for noncompletion. Community service work programs arise through a variety of legal mechanisms most often in criminal and traffic courts, primarily as:

1. Direct sentencing to perform community service as all or part of the punishment for conviction of a criminal offense or infraction;
2. A condition of a court-supervised release program such as pre- or post-conviction diversion, probation, or parole, where violation of a condition may trigger incarceration and/or prosecution; or
3. An alternative to paying court-imposed fines, fees, or other financial sanctions by "working off" the court debt instead, where nonpayment otherwise could result in incarceration or other criminal sanctions.

All 50 states authorize community service work programs in at least some criminal cases, and at least 42 states use these work programs as an alternative to court debt. These work programs operate in both public and private workplaces and across many types of work, including non-profits; data entry; warehousing; custodial services; retail; park and roads maintenance; landscaping; and agricultural work. Community service workers are regularly assigned to work alongside conventional employees.

Individuals ordered to community service work programs generally report to either probation and parole departments to be assigned a workplace, or in some jurisdictions, to private non-profits contracted with the court to function as a referral agency. Such contracts with third-party non-profits are structured in part to shield the court from liability, such as for injury to or by community service workers.[6]

We organize our analysis around three potential areas of protection:

1. General labor standards

U.S. labor and employment laws generally provide employee protections in a wide range of areas including minimum wage, overtime, discrimination, family and medical leave, workplace safety, social insurance protections when unable to work, and rights to organize and bargain collectively.

To what extent do community service workers receive such protections, either as employees or through functionally similar means?

2. Forced labor

The Thirteenth Amendment to the U.S. constitution, echoed in many state constitutions, declares that "involuntary servitude" "shall not exist" in the U.S., and a number of federal and state statutes bar a somewhat broader category of "forced labor." These protections provide a foundation for worker power by protecting the right to refuse or quit employment.

Do community service workers have a meaningful right to refuse or quit work without facing incarceration as a result, including by substituting some other activity that can satisfy criminal legal obligations?

3. Displacement of other workers

Employers can be incentivized to substitute conventional employees with community service workers. Community service work programs permit employers to avoid wages, payroll taxes, and compliance with other labor standards, as well as to wield power over workers with threats of incarceration.

Are community service programs prohibited from engaging in such "displacement," using community service workers to eliminate hours or positions in conventional jobs?

Analyzing state statutes across the country, we find that community service workers are broadly excluded from hard-fought and basic worker protections. The overwhelming majority of these work programs provide workers no pay, few protections even for "working off" debt at the equivalent of the minimum wage, no mechanism regulating workplace safety or compensation for injury, and no protection against harassment or other harms. They do so against the backdrop of the ubiquitous threat of incarceration and without safety valves that would prevent the forced labor that arises when workers are presented with the choice "get to work or go to jail."[7] Protections against using community service programs to displace conventional workers are virtually nonexistent.

To summarize our findings across all states and all types of protection that exist in at least one state, we focus on five major types of protection:

(a) Using minimum wage rates to set credit for "working off" court debt;

(b) Providing full workers' compensation protections;

(c) Setting maximum hour or rest break requirements analogous to employment protections against overwork;

(d) Avoiding forced labor by giving defendants a choice to fulfill community service obligations with another productive activity; and

(e) Protecting against displacement.

Using these criteria, we find the following:

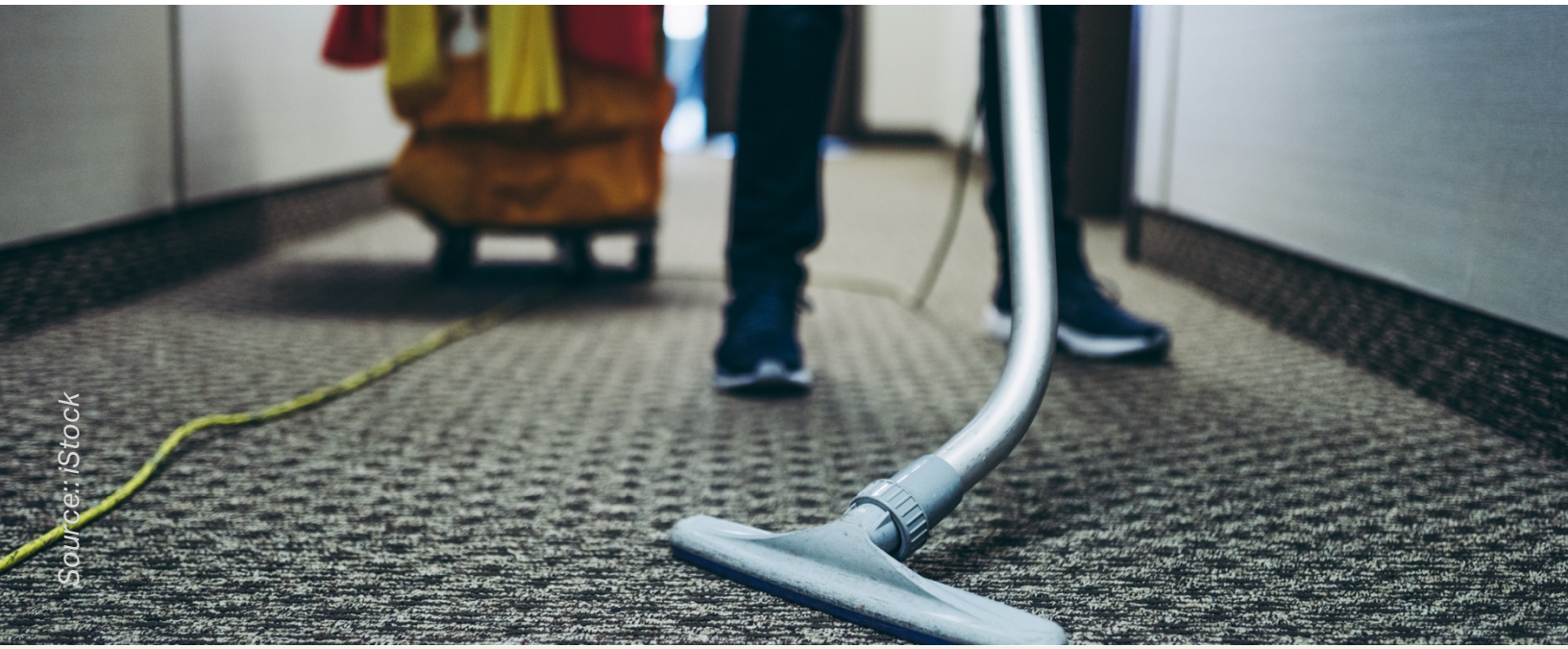
- The majority of states (29) provide *none* of these protections to community service workers;
- Not a single state provides *all* five of these major types of protection;
- Only three states have more than one of these major protections.

In short, community service work programs operate almost entirely "below the floor" of hard-fought and basic workplace protections of employment law, threatening both community service workers and conventional employees alike.

How the survey was conducted and reported

We conducted a comprehensive survey of state community service statutes as they existed in 2021 and coded the results for a variety of characteristics, not all reported on here. The labor-related provisions central to this brief were systematically checked and updated as of 2022; subsequent changes may be noted where they have come to our attention.

State laws governing court-ordered community service often are quite fragmented. Within a single state, there might be multiple, separate laws creating these programs with rules that vary depending on the underlying criminal offense in question, whether the defendant is a youth or an adult, the procedure by which community service is imposed (direct sentence vs. conditional release vs. as an alternative to cash payment), and so on. In order to avoid undue complexity in the findings below, we report a state as providing a given type of protection if it does so for *any* of the community service programs it authorizes. In many cases, other programs within the same state may lack similar protections. As a result, this approach errs in the direction of overstating how many programs have labor protections, which makes the widespread absence of such protections even more striking.



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General Labor Standards

Before getting into the details of specific types of worker protections, one can simply ask generally whether community service workers typically occupy the legal category of "employee." If they do, most standard labor protections follow as a matter of course.

The most familiar disputes over who is legally considered an "employee" concern the distinction between employees and independent contractors. Employers often misclassify workers as contractors in an attempt to deny them a wide range of labor protections. Conflicts over independent contractor misclassification have been especially prominent in app-based ridehail and delivery work.[8] The issues for community service workers are different. An employer's control over how work is performed generally suffices to categorize a worker as an employee, and court-ordered community service programs generally do place workers under tight control. None of the known disputes over community service labor protections involve the claim that these workers are independent contractors.

Instead, the claim here—often simply an assumption, even unstated—is that despite performing valuable work under another's control, no employment protections attach because the work is structured through the criminal legal system.[9] A similar argument has been widely, but not universally, embraced by the courts in the context of incarcerated workers, even ones who receive hourly wages.[10] In *Doyle v. City of New York*, one federal district court extended this analysis to a case involving court-ordered community service as a condition of a "diversion" program, denying those workers rights to the federal minimum wage.[11]

Even without the criminal legal context, any work meant to be unpaid is difficult to fit within conventional understandings of employment, as in the case of true volunteers. That said, courts typically understand "compensation" capaciously, including in-kind benefits as

distant from cash wages as compensation for work-related death or injury.[12] In this vein, the California Supreme Court in *Arriaga v. County of Alameda* reasoned that court-ordered community service may qualify as employment when it is performed as a way to "work off" criminal fines and fees.[13] The financial benefit of receiving credit against court debt constitutes the necessary "remuneration," a feature that distinguishes *Arriaga* from cases like *Doyle* where performing community service provided no immediate economic benefits to the worker.[14] This decision was specific to a California workers' compensation statute, and little litigation has yet tested its broader applicability to other general employment statutes.

For now, court-ordered community service programs generally are structured on the assumption that no employment relationship exists under general worker protection statutes...

For now, court-ordered community service programs generally are structured on the assumption that no employment relationship exists under general worker protection statutes,[15] with narrow exceptions sometimes provided by the statutes specifically authorizing those programs. As shown in Table 1, however, six states expressly reject employment status in at least some of their community service work programs. Kentucky and New Mexico do so even when there is an explicit economic *quid pro quo* between performing work and receiving credit toward criminal fines and fees, the scenario where the case for an employment relationship is strongest, as exemplified by the *Arriaga* case referenced above

Table 1. State Statutes Rejecting Employee Status for Community Service Workers		
	For Community Service In Lieu of Paying Fines and Fees	**For Other Community Service**
Connecticut[16]		✓
Hawaii[17]		✓
Illinois[18]		✓
Kentucky[19]	✓	✓
New Mexico[20]	✓	✓
South Dakota[21]		✓

Many states also address specific areas of traditional employment protections and may affirm or reject employee status for those specific purposes, in some cases creating parallel protections decoupled from employee status and unique to community service workers. The most common topics addressed are the hourly wage rate for community service work—typically in the form of credit against court debt—and workers' compensation for work-related injury. The absence of many other protections is itself noteworthy, though it leaves nothing to report affirmatively here.

Wage rates

Minimum wage laws generally do more than simply assign a minimum dollar value to each hour of work. They include record-keeping, anti-retaliation, and regular payment provisions. Most important here, they require—absent narrow and specific exceptions—that workers receive their wages in cash "free and clear" for them to spend, not in nominal credits recaptured by employers, such as the infamous scrip for the company store. In conjunction with laws limiting wage deductions by employers and wage garnishment by creditors, these provisions ensure that workers receive their wages rather than having

seized in repayment of debt before ever reaching the workers' hands. No state by statute applies wage protections of this sort to community service work.

Nonetheless, Table 2 shows that many states acknowledge the relevance of minimum wage standards to how community service work is valued.[22] Seven states explicitly tie credit against court debt to the federal minimum wage, mostly either by setting work credit equal to that rate or by using that rate as a minimum with local discretion to apply higher rates. Nine states explicitly tie credit against court to their state minimum wage.[23] (Mississippi uses the federal minimum wage in one context and the state minimum in another.) Notably, one Florida provision makes a particularly strong connection between community service work and functionally similar employment in the general labor market, requiring the use of prevailing market wage rates when they are above the minimum for the type of work in question. In contrast a few states set hourly rates at specific dollar amounts that fall below state and/or federal minimum wages, such as the $5/hour rate in Kansas.

Even when states grant credit toward fines and fees based on an hourly rate, including one tied to the minimum wage, many still expressly treat the work as "uncompensated" or even specifically reject the notion that the work is entitled to wages, consistent with the more general rejection of employment status for community-service workers. New Mexico, for instance, credits work hours toward fines and fees at the relatively high rate of twice the state minimum wage, and yet the same provision states that community-service workers "shall not be entitled to wages or considered an employee for any purpose." This New Mexico provision is also noteworthy because, like some but not all the other states, this designation of community service as unpaid applies specifically to work done in lieu of court debt, where the case for minimum wage applicability is strongest. In other cases, states may specify the use of an hourly benchmark for community service linked to court debt and designated as uncompensated other forms of community service. This column, "Specifying No Compensation," of Table 2 only includes statutes that refer specifically to

compensation, although statutes rejecting employee status generally (Table 1) also have this effect.

Table 2. State Statutes Addressing Hourly Rates for Community Service In Lieu of Court Debt

	Federal Minimum Wage	State Minimum Wage	Other Numerical Standard	Specifying No Compensation
Alaska[24]		✓		
California[25]		✓		
Delaware[26]	✓			
Florida[27]	✓		✓	
Georgia[28]	✓			✓
Illinois[29]		✓		✓
Indiana[30]				✓
Iowa[31]		✓		✓
Kansas[32]			✓	
Louisiana[33]				✓
Maryland[34]				✓
Massachusetts[35]			✓	✓
Michigan[36]				✓
Mississippi[37]	✓	✓		
Montana[38]		✓		
Nebraska[39]				✓
Nevada[40]		✓		✓
New Mexico[41]	✓			✓
Ohio[42]	✓			
Oklahoma[43]				✓
South Carolina[44]				✓

Vermont[45]		✓		
Washington[46]		✓		
West Virginia[47]	✓			

Workers' compensation

The earliest widespread statutory employment protections were workers' compensation laws. These laws do not ensure that workers are affirmatively better off through their labor by getting paid or receiving other benefits. Instead, they incentivize employers to protect workers against the worst downsides of work: being injured or killed. Rather than directly regulating unsafe working conditions like modern safety regulation such as the Occupational Safety and Health Act (OSHA), workers' compensation laws generally cover medical expenses from work-related injury or illness and provide for wage replacement when such workplace harms leave workers medically unable to work or able to work only with diminished earnings.

A unique feature of workers' compensation laws is their double-edged character: worker benefits under these laws are part of a *quid pro quo* that also protects employers by shielding them from tort liability for workplace injury or illness arising from their own negligence, essentially substituting a no-fault insurance scheme. Thus, in the workers' compensation context, employee status can benefit employers at the expense of workers, complicating the usual political calculus in which employers seek to deny the existence of an employment relationship in order to avoid legal duties to their workers. In the California *Arriaga* case, for instance, the court's finding of employee status actually prevented the injured community service worker from bringing a tort claim against their former employer.

No doubt related to this employer-protective aspect, state workers' compensation laws often have considerably broader coverage than other employment laws. For instance, although courts generally exclude incarcerated workers from employment protections like the minimum wage even when there is no explicit statutory exclusion, incarcerated

workers are occasionally included as "employees" for workers' compensation purposes. Similar patterns appear with regard to community service workers. Indeed, some states include community service workers in the employer liability shield component while denying them access to insurance compensation for the same injuries.

As Table 3 shows, three states wholly include community service workers as employees under state workers' compensation laws. Again, we list states that do so for any form of court-ordered community service, even if not for all. Another seven states explicitly grant community service workers' compensation coverage but in some form other than full inclusion in their general workers' compensation scheme for employees. In some cases (like Montana), community service workers are explicitly treated as employees for workers' compensation purposes but then have their benefits limited in various respects. In other states (like Maryland), they receive protections similar in form to workers' compensation but through an entirely separate, and lesser, scheme.

At the opposite extreme, five states explicitly exclude community service workers from mandatory coverage by their workers' compensation scheme, although in some cases they allow employers to opt-in if they so choose. In two cases (Missouri and South Dakota), the same statutes also exclude community service workers from unemployment insurance coverage. Finally, a larger group of fourteen states explicitly shield employers from negligence liability for workplace injury to community service workers even while making no other provision for (or specifically barring) worker benefits. Often these statutes protect employers from negligence liability but do allow suits when a heightened standard of gross negligence or recklessness can be established.

Table 3. State Statutes Addressing Workers' Compensation for Community Service Workers

	Included in Workers' Compensation	Similar but Separate Benefits	Limiting Employer Liability Only	Wholly Excluded from Workers' Compensation
Arizona[48]			✓	
Colorado[49]				✓
Florida[50]	✓			
Georgia[51]			✓	
Idaho[52]	✓			
Illinois[53]			✓	
Iowa[54]		✓		
Kansas[55]			✓	✓
Kentucky[56]			✓	
Louisiana[57]			✓	
Maine[58]			✓	
Maryland[59]		✓		
Minnesota[60]		✓		
Missouri[61]			✓	✓
Montana[62]		✓		
Nebraska[63]	✓			
Nevada[64]		✓		
New Mexico[65]				✓
North Carolina[66]			✓	
Ohio[67]		✓		
Oklahoma[68]			✓	
South Dakota[69]			✓	✓

Texas[70]			✓	
Vermont[71]		✓		
Virginia[72]			✓	
Wisconsin[73]			✓	

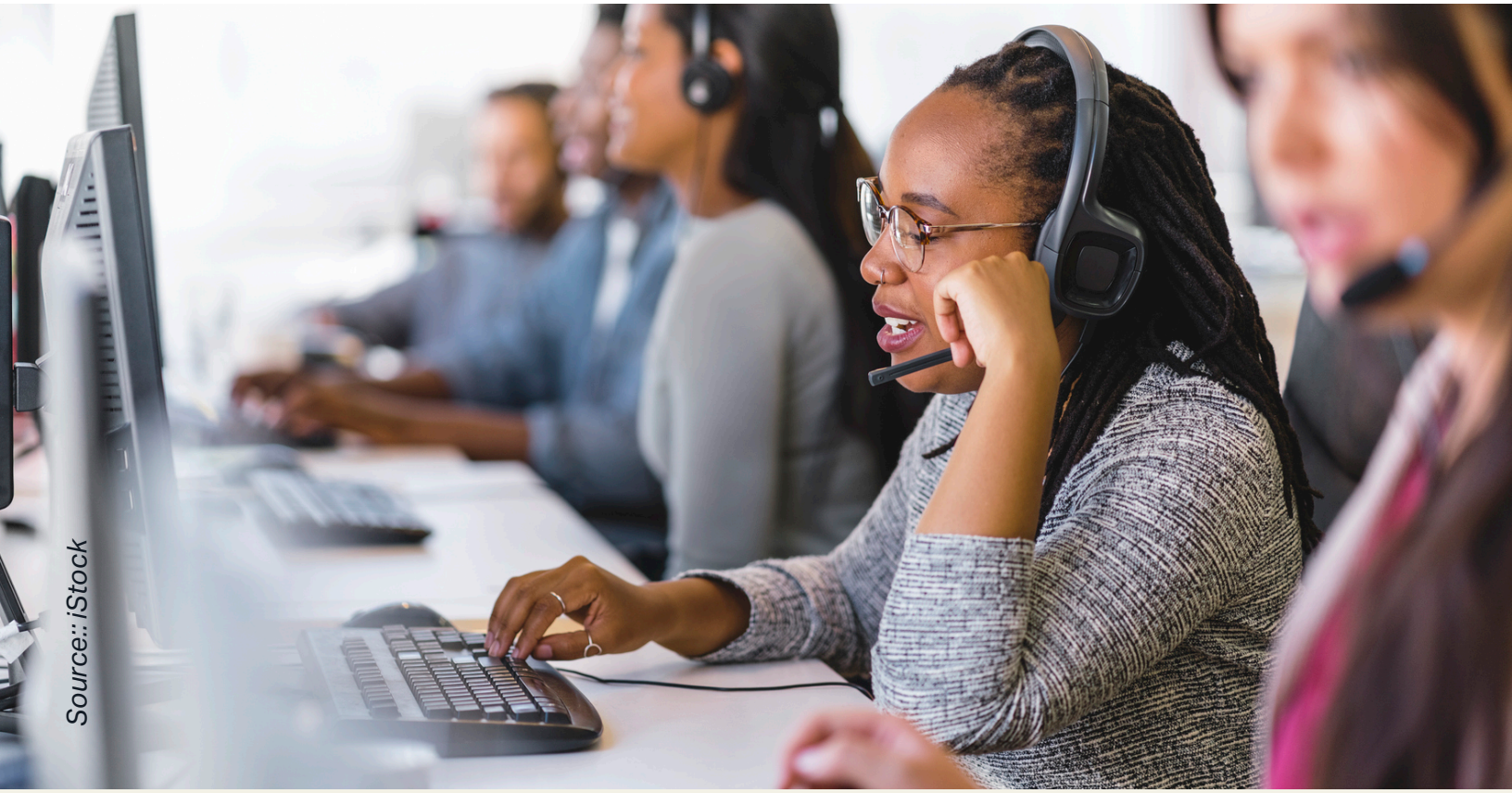
Other worker protections

A handful of state court-ordered community service statutes address worker protections other than wage rates or workers' compensation for work-related injuries. A few states provide protections against overwork, analogous to state employment laws forbidding mandatory overtime or mandating occasional breaks. Louisiana caps community service at eight hours per day; Texas caps weekly hours at thirty-two; and Illinois requires reasonable rest breaks.

Rather than treating community service itself as analogous to full-time work, some states limit the potential conflict between community service and other obligations, including full-time conventional employment. Texas' 32-hour workweek cap applies only to unemployed workers, but lower hours limits apply to those with paying jobs. Nevada confines community service to weekends to avoid conflicts with conventional work and caregiving. Several states provide more generally that courts should take into account potential work, family, or school conflicts when assigning and scheduling community service.

In some cases, these accommodations go beyond scheduling to affect the nature of the assignment itself. Kentucky bars "unduly hazardous" work and allows assignments to be refused for medical reasons, and West Virginia similarly places health risk limitations on assignments. These limitations are the closest any state statute comes to providing protections based on disability, and we did not identify a single statute protecting against race, gender, or other forms of discrimination in community service work assignments or conditions.

Table 4. State Statutes with Other Protections for Community Service Workers		
	Work Hours	**Work Assignment/Scheduling**
Hawaii[74]		✓
Illinois[75]	✓	✓
Kentucky[76]	✓	✓
Louisiana[77]	✓	
Nebraska[78]		✓
Nevada[79]		✓
New Hampshire[80]		✓
Oklahoma[81]		✓
Texas[82]	✓	
West Virginia[83]		✓



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Forced Labor

Since adoption of the Thirteenth Amendment during Reconstruction, the law of forced labor has had a dual character. On the one hand, the sweeping declaration that "involuntary servitude" "shall not exist" in the U.S. provides a uniquely robust constitutional mandate that applies to both public and private employers. This prohibition applies to work done under "compulsion," where compulsion includes both the use or threat of physical force by private employers and also the threat of legally sanctioned state violence.[84] Thus, the early 20th-century *Peonage Cases* established that states violate the Thirteenth Amendment if they impose criminal penalties on workers simply because they cease or refuse work. This prohibition includes imposing punishment for ceasing or refusing work that is structured as repayment of debt. Although it only goes so far under conditions of economic and racial inequality, this "right to change employers" is a bedrock "defense against oppressive hours, pay, working conditions, or treatment," as the Supreme Court once put it.[85]

On the other hand, the Amendment explicitly allows imposition of involuntary servitude as "punishment for a crime." That loophole was systematically exploited throughout the post-bellum South to re-establish forms of "neoslavery" by which discriminatory and often pretextual arrest and prosecution of Black workers provided the nominal justification for sentences to hard, often fatal labor for private employers through the convict lease system and for public employers through the chain gang.[86] And to this day, not only does that exception allow involuntary servitude to be imposed on incarcerated workers, but courts often cite the exception to justify depriving such workers of statutory employment rights like the minimum wage.[87]

Today's court-ordered community service programs sit at the crossroads between these two contradictory constitutional principles. For the purposes of this report, the crucial point is that court-ordered community service is not insulated from Thirteenth Amendment scrutiny merely because it arises through operation of the criminal legal

system. Community service that does not constitute "punishment" falls outside the exception, and therefore may be unconstitutional if it is considered involuntary. A number of courts have applied this principle to strike down some forms of court-ordered community service. These include community service to "work off" fees that defendants are required to pay as part of criminal court judgments but that are not considered to constitute punishment,[88] as well as community service imposed outside of any criminal judgment, such as in connection with pre-trial detention.[89] Our focus here is on statutory features of court-ordered community service that affect whether they are "involuntary," assuming that no "punishment" exception applies. As an increasing number of states move to repeal the punishment exceptions in their state constitutional prohibitions on involuntary servitude,[90] this will become relevant even where the federal exception still applies.

The crucial question for present purposes is whether workers ordered into community service are threatened with incarceration if they refuse or subsequently quit. Being put to this choice between "work or jail" is at the core of what the Thirteenth Amendment forbids. The crucial Supreme Court cases establish, moreover, that any alternative to work or jail must be genuinely accessible, not a mere formality. In the *Peonage Cases*, for instance, workers technically could have quit work but avoided prosecution so long as they paid their outstanding debts in cash. But that formal option was meaningless because the workers had no money with which to pay those debts. Indeed, that was precisely why they were "working off" the debts in the first place. This point takes on added significance in light of separate constitutional protections, under *Bearden v. Georgia*, against incarceration for nonpayment of debt when the debtor cannot afford to pay, such that any nonpayment is not "willful."[91] Indeed, the *Bearden* doctrine is part of what motivates many court-ordered community service programs, which present this work as a benign alternative to incarceration when a defendant is unable to pay court debt. For our purposes, though, the crucial point is that if paying the debt is not a viable option, then it constitutes involuntary servitude to put someone to the "choice" between community service work and incarceration for nonpayment.[92]

In short, the forced labor analysis boils down to two questions:

1. Are community service workers threatened with incarceration or other punishment if they do not work?
2. Do community service workers have a meaningful third option other than work or jail?

Incarceration threat

Failure to complete community service to the satisfaction of the court can lead to incarceration through a wide variety of procedural mechanisms. Examples include revocation of probation that triggers imposition of an underlying sentence of incarceration; resentencing that could include a sentence of incarceration; intermediate sanctions short of revocation but including a period of confinement; contempt of court sanctions that can include incarceration; and prosecution for a freestanding criminal offense. As shown in Table 5, in 32 states we found specific reference to such mechanisms in statutes authorizing the imposition of court-ordered community service. In 27 states, revocation of probation was specifically provided for (sometimes in combination with other mechanisms), and in five additional states there was reference only to a mechanism other than probation revocation. Texas, for instance, authorizes a new, independent criminal charge for incompletion of community service work, punishable by incarceration of up to two years and at least six months. West Virginia uses the common practice of allowing some jail sentences to be converted into an equivalent number of days of community service, and it further specifies that the court may "at any time by order entered with or without notice…require that the remainder of the sentence be served in the county jail."[93] In the remaining states, we expect that in most cases noncompletion of community service can lead to incarceration through mechanisms not made explicit in the provisions authorizing community service themselves. These may reside in other parts of the criminal codes not specifically about community service, or in courts' inherent powers to enforce their judgments, including through contempt proceedings. For instance, most of the remaining states authorize community service as a

condition of probation or another form of supervision, implying that jail could often be a consequence of a violation.

Table 5. State Statutes Enabling Incarceration for Noncompletion of Community Service

Alaska[94]	Nebraska[95]
Arkansas[96]	New Hampshire[97]
California[98]	New Jersey[99]
Connecticut[100]	North Carolina[101]
Delaware[102]	Ohio[103]
Florida[104]	Oklahoma[105]
Idaho[106]	Oregon[107]
Illinois[108]	Rhode Island[109]
Iowa[110]	South Carolina[111]
Kansas[112]	South Dakota[113]
Kentucky[114]	Texas[115]
Louisiana[116]	Vermont[117]
Maine[118]	Virginia[119]
Michigan[120]	Washington[121]
Mississippi[122]	West Virginia[123]
Missouri[124]	Wisconsin[125]

Alternatives to Work or Incarceration

Even when someone faces demands from the criminal legal system under threat of incarceration, the specific harms of forced labor may be blunted if there is a meaningful third option beyond work or jail. A useful analogy here comes from organizing and advocacy against work requirements attached to public assistance eligibility. There, a common demand has been to make available life-improving activities like education or supportive services as an alternative to extractive, dangerous, and demeaning unpaid work assignments.[126] Making similar activities available as alternatives to court-ordered community service may likewise provide affirmative benefits to participants and also blunt the temptation to utilize the criminal system as a tool to deliver unpaid, vulnerable labor to employers. To be sure, the existence of such alternatives does not remove coercion from the system, and coercion into putatively beneficial services raises its own set of serious critiques. Nonetheless, expanding the range of options creates pressures toward meaningful structures of care and mitigates the specific forms of labor subordination and extraction against which the Thirteenth Amendment protects.

From the perspective of avoiding forced labor, the most important thing is for performing community service to represent a choice to do that work instead of participating in some other activity that would equally well satisfy the criminal legal system. As Table 6 shows, it is not uncommon for states explicitly to allow non-work activities to satisfy community service work obligations or be substituted for them. California, for instance, recently made a variety of educational programs available as a way to satisfy community service obligations to "work off" fines and fees associated with traffic violations and other infractions. New Jersey offers an even wider range of options, including drug treatment, family counseling, and other services. Only a few states, however, make these substitutions a matter of choice for the criminal defendant. Instead, it is more common for the judge or some other system official to have discretion to substitute an alternative activity. Nonetheless, such provisions recognize that these activities can be functionally interchangeable with community service. When an official rejects these alternatives and gives a defendant no choice but to work, forced labor still arises, but the recognition of the

validity of these alternatives provides a potential path toward future reductions in coercion by introducing more defendant choice.

In addition to explicitly allowing alternative activities to substitute for community service, many states include community service alongside other activities in a sentencing menu made available to judges. Ohio's approach is typical: judges imposing sentences without incarceration may choose a variety of alternative sanctions that include, among other things, community service, drug treatment, education, or workforce training. Unlike the substitutions discussed above, here these alternatives are not mutually exclusive; thus, in principle any of them could be imposed *in addition* to community service, rather than *instead of* it. Nonetheless, they represent a potential point of departure toward making community service interchangeable with other activities and thereby rolling back a regime of forced labor.

Table 6. State Statutes Allowing Alternative Activities as Substitutes for Community Service

	Defendant-Chosen Substitute	System-Chosen Substitute	Multiple Sentencing Options
Arizona[127]	✓	✓	
California[128]		✓	
Florida[129]	✓		
Georgia[130]		✓	✓
Illinois[131]		✓	
Louisiana[132]	✓	✓	
Massachusetts[133]			✓
Michigan[134]		✓	✓
Minnesota[135]			✓
Missouri[136]			✓
Montana[137]			✓

Nebraska[138]			✓
Nevada[139]			✓
New Jersey[140]		✓	
New York[141]			✓
North Carolina[142]			✓
Ohio[143]			✓
Pennsylvania[144]		✓	
Rhode Island[145]		✓	✓
South Carolina[146]			✓
Texas[147]		✓	
Wyoming[148]			✓

Displacement of Other Workers

The labor issues discussed above directly concern the working conditions of people assigned to court-ordered community service. They reveal a structure that utilizes the criminal legal system to supply workers under conditions that give employers much greater power, and impose many fewer protections against exploitation or abuse, than when hiring employees through conventional labor markets. For this reason, employers may well utilize this subordinated labor force to depress labor standards for conventional employees who face the threat of replacement by community service workers. Such tactics have a long history and constitute a persistent feature of racial capitalism, in which racialized forms of coerced labor simultaneously enable extreme forms of wealth extraction, discipline so-called "free labor," and stoke racial antagonism by pitting workers against one another.[149]

In short, employers can be incentivized to substitute conventional employees with community service workers in order to avoid wages, payroll taxes, and compliance with other labor standards, as well as to wield power over workers with threats of incarceration.

When such substitutions lead to fewer workers holding conventional jobs or to working fewer hours, this is known as "displacement."

Anti-displacement measures are a common feature of work programs that place workers in highly vulnerable positions. They arise in contexts ranging from welfare-to-work, to prison labor, and to immigrant "guest work."[150] Indeed, campaigns to prevent displacement of "free labor" by prison labor played a central role in the history of the modern prison and led to a swath of federal anti-displacement legislation, and many state analogues, that remain in place today.[151] That legislation, however, applies only to work by people currently incarcerated, and so it does not reach community service that is mandated by the criminal legal system under *threat* of incarceration.[152] Similarly, even when the 1996 federal welfare reform law repealed many previous labor protections for workfare workers, it retained nationwide protections against displacement, including through "workfare" or "community service" work assignments.[153] Those protections, however, apply only to community service mandated through the welfare system, not through the criminal legal system.

The rarity of displacement protections highlights how little attention community service programs have received as systems of labor supply...

Despite the familiarity of displacement protections in other contexts, they are almost entirely absent from the statutory schemes authorizing court-ordered community service. The rarity of displacement protections highlights how little attention community service programs have received as systems of labor supply, instead operating almost entirely within the frame of criminal justice policy.

New York is the only exception (Table 7). It has a provision simply barring "displacement of employed workers." It is unclear how broadly "displacement" would be interpreted. For instance, new tasks might be assigned to community service workers instead of hiring new workers, even though no existing workers lose their jobs. Or service levels may be reduced for a time through layoffs before eventual restoration through alternative labor supplies; such issues were litigated extensively during the height of New York City's reliance on workfare workers to provide public services during a period of cutbacks to public employment.[154]

Table 7. State Statutes with Protection Against Displacing Other Employees

	General Displacement	Assignment During Labor Disputes
New York[155]	✓	✓

New York's provision also separately prohibits assignment of community service workers to "any establishment involved in any labor strike or lockout." This prevents community service workers from being used as strikebreakers.

Although we have not tallied them systematically, some states like South Dakota do explicitly limit community service assignments to government or non-profit entities and bar these assignments from "result[ing] in gain to any private individual or to a private corporation."[156] Like the practice of restricting prison labor to "state use," such provisions may be intended to limit direct displacement of private sector workers, but they do nothing to prevent displacement in public sector or non-profit employment (including government sub-contractors).

Summary

Our survey demonstrates that community service workers are almost entirely lacking in basic labor protections. No state affirmatively includes them in their employment laws as a general matter, even when they are engaged in the explicit economic *quid pro quo* of "working off" court debt. Only three states affirmatively include any community service workers as employees for *any* purpose, with the exception being those states providing workers' compensation coverage.

Table 8 summarizes our findings. Including all fifty states and the District of Columbia, it shows which states include the most robust—even if still quite limited—work-related protections for community service workers. These major protections are the following:

- Using either the federal or state minimum wage to set the minimum hourly credit when using community service to "work off" court debt (Table 2);
- Providing full workers' compensation coverage as employees (Table 3);
- Providing maximum hours or rest break protections against overwork (Table 4);
- Avoiding forced labor by giving defendants a choice to fulfill court-ordered community service with a non-labor activity (Table 6); and
- Barring the use of court-ordered community service to displace conventionally employed workers (Table 7).

Note that we have classified a state as providing one of these protections if they do so for *any* community service work program, even if the state does not do so for *all* its programs. As a result, if anything, this summary overstates the available protections, rare as they are.

Using even these lenient criteria, we find that most states (29) provide none of the major types of protection. No state provides *all* of these protections, and only three states (Florida, Illinois, and Louisiana) have more than one of the major protections. Even those states are still missing two or three types of protection.

Table 8. Summary of State Statutory Major Protections for Any Community Service Workers

	Summary		Minimum Wage Rates for Court Debt Credit (Table 2)	Workers' Compensation Protection as Employees (Table 3)	Work Hours Protections (Table 4)	Choice of Alternative Activities (Table 6)	Displacement Protections (Table 7)
	No Major Protections	More Than One Major Protection					
Alabama	X						
Alaska			✓				
Arizona						✓	
Arkansas	X						
California			✓				
Colorado	X						
Connecticut	X						
Delaware			✓				
District of Columbia	X						
Florida		X	✓	✓		✓	
Georgia			✓				
Hawaii	X						
Idaho				✓			
Illinois		X	✓		✓		

Indiana	X						
Iowa			✓				
Kansas	X						
Kentucky					✓		
Louisiana		X			✓	✓	
Maine	X						
Maryland	X						
Massachusetts	X						
Michigan	X						
Minnesota	X						
Mississippi			✓				
Missouri	X						
Montana			✓				
Nebraska				✓			
Nevada			✓				
New Hampshire	X						
New Jersey	X						
New Mexico			✓				
New York							✓
North Carolina	X						

North Dakota	X						
Ohio			✓				
Oklahoma	X						
Oregon	X						
Pennsylvania	X						
Rhode Island	X						
South Carolina	X						
South Dakota	X						
Tennessee	X						
Texas					✓		
Utah	X						
Vermont			✓				
Virginia	X						
Washington			✓				
West Virginia			✓				
Wisconsin	X						
Wyoming	X						

Recommendations

Bleak as this landscape is, it also identifies realistic paths toward improvement. Twenty-two states do have some form of labor protection written into their community service statutes. This demonstrates that such protections are possible even within the basic structure of existing programs. Any state could adopt them throughout their community service programs.

But much stronger protections and deeper transformation are also needed. NELP advocates for a "good-jobs economy," a framework that guides policy towards a more just and inclusive economy and includes the following components:

- All jobs pay a living wage;
- All jobs include robust benefits;
- Race, gender, immigration, or justice-involved status do not determine access to good jobs and opportunity;
- Workers' rights to organize, form unions, and participate in collective bargaining are strengthened;
- Workers are protected against retaliation for speaking up about workplace abuse or refusing dangerous work.[157]

As shown throughout this survey, community service work programs expand unpaid, unprotected, and forced work into conventional workplaces, standing in stark contrast to the above framework for racial and economic justice.

Currently, the criminal legal system creates parallel, substandard work structures that exploit the very people and communities already most subjected to carceral state violence and most excluded from economic stability and opportunity. As an analytical matter, eliminating these substandard labor structures created by the criminal legal system is not likely without a self-conscious horizon of decarceration, because the coercion and hierarchy intrinsic to incarceration breeds opportunities for exploitation and

abuse. While not the focus of these briefs, we are mindful that the history of incarceration's sprawling, globally unprecedented growth in the U.S. occurred in part through a series of purportedly well-intentioned reforms that ultimately increased the vulnerability of workers and particularly workers of color to jail and prison–and increased the absolute number of people incarcerated.[158] In short, there is no real world "alternative" to the unprotected, forced labor at stake in community service programs that also includes the threat of incarceration. No "good job" has jail as a consequence of noncompliance.

To overcome the failings of community service programs, policymakers must advance the following:

1. **Raise labor standards for any court-ordered community service toward parity with conventional employment by applying standard labor protections.**

   As a starting point, yet still a significant advance from where we are today, community service programs ought to protect the basic labor rights of people working within them. Anything else turns the criminal legal system into a broker for granting employers exemptions from basic obligations of fair treatment. As a high-road approach, states should apply standard labor protections as a matter of course to community service programs by treating them as employer-employee relationships, reinforcing the rights of all workers. As we report above, some states already take intermediate steps that grant some labor protections without full integration into general-purpose employment laws.

2. **Prohibit employers from using community service workers to displace conventional employees (or threatening to do so).**

When employers use community service workers to perform tasks that otherwise would have required hiring conventional employees, the loss of hours or employment in those jobs is known as "displacement." Employers may prefer to rely on community service workers to lower their costs and increase their power over workers for whom job loss could trigger incarceration. Prohibitions on displacement protect both community service workers and conventional employees alike. Community service programs should incorporate anti-displacement provisions like those common in other contexts involving particularly vulnerable workers who may lack labor protections, such as migrant guestworker programs, prison labor, and welfare-to-work programs.

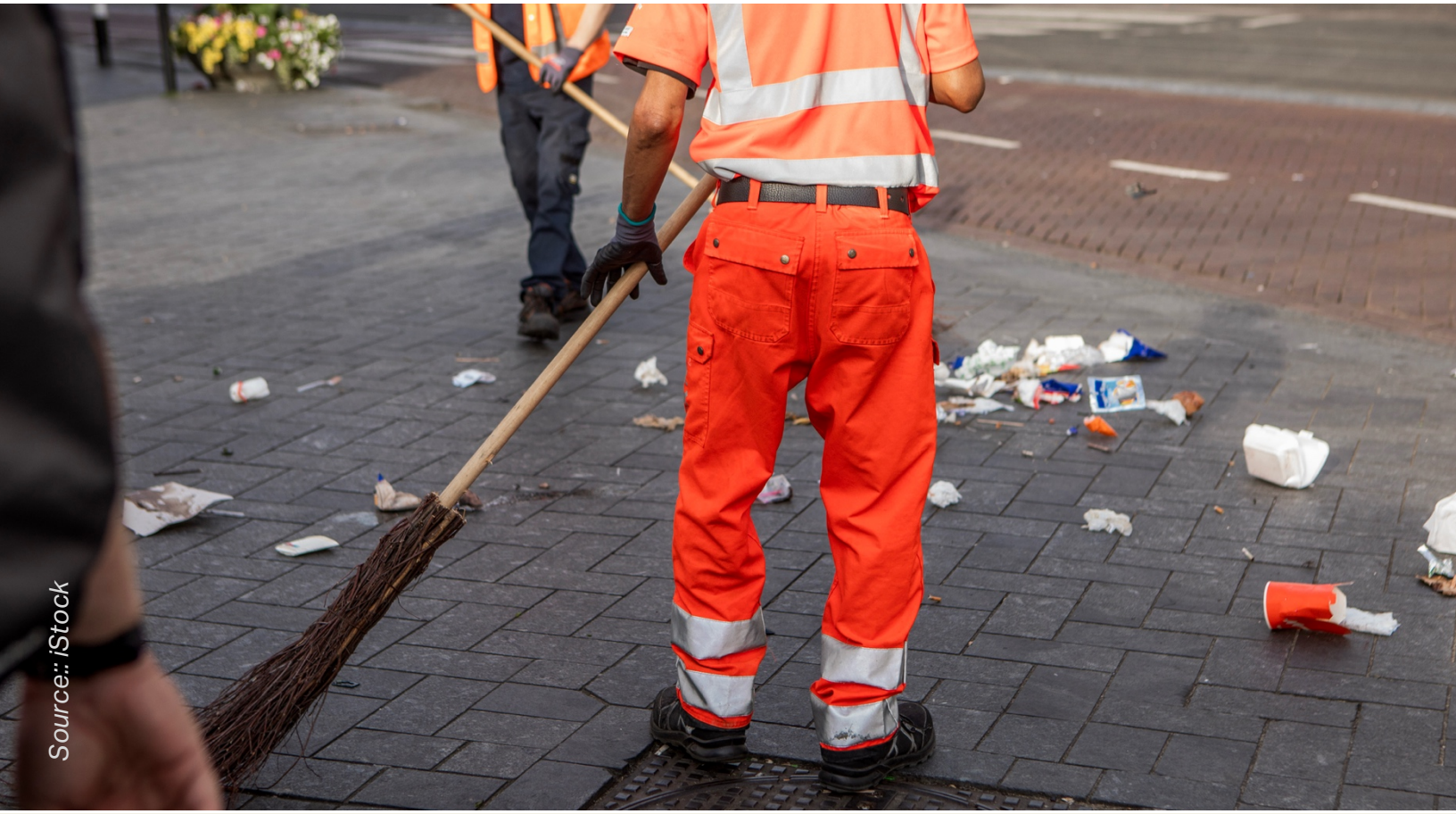
Employers may prefer to rely on community service workers to lower their costs and increase their power over workers for whom job loss could trigger incarceration.

3. **Utilize job creation techniques to provide affirmative access to fully protected jobs for anyone unable to pay fines and fees due to un(der)employment.**

Policy changes affirmatively aimed at creating good jobs and building a just and inclusive economy would render unnecessary a significant swath of community service work programs, especially those designed to "work off" court-ordered debt that a worker cannot afford to pay. In such an economy, there would be access to decent jobs that would allow workers to pay off criminal legal debts with wage earnings–avoiding the community service's debt servitude (i.e., peonage) scheme in the first place.

4. **Remove carceral labor coercion by creating options to fulfill payment or labor obligations through productive activities not involving labor extraction.**

In some circumstances, participation in education, training, or drug rehabilitation programs may itself be considered a form of "community service" or a substitute for it. Offering such alternative activities may provide affirmative benefits to participants and blunt the use of the criminal legal system as a tool to deliver unpaid, vulnerable labor to employers. To be sure, the existence of such alternatives does not remove coercion, and coercion into putatively beneficial services raises its own set of serious critiques. From the perspective of avoiding forced labor, however, the crucial point is to prevent anyone from being forced to choose between performing community service work or being incarcerated. Offering a third possibility that also satisfies the criminal legal system loosens this bind.



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Endnotes

[1] Elsewhere, we have called this threat of state violence through criminal punishment at work "structures of worker criminalization" and the "carceral labor continuum." Noah Zatz, "The Carceral Labor Continuum," *Inquest*, June 1, 2023, https://inquest.org/the-carceral-labor-continuum; Han Lu, *Worker Power in the Carceral State* (New York: National Employment Law Project, 2022), https://www.nelp.org/wp-content/uploads/Worker-Power-in-the-Carceral-State-10-Proposals.pdf.

[2] Han Lu & Noah Zatz, *Minimum Protection, Maximum Vulnerability: Labor Standards in Court-Ordered Community Service* (National Employment Law Project 2024), https://www.nelp.org/app/uploads/2024/04/Minimum-Protection-Maximum-Vulnerability-Labor-Standards-Court-Ordered-Community-Service-March-2024.pdf.

[3] Lucero Herrera et al., *Work, Pay, or Go to Jail: Court-Ordered Community Service in Los Angeles* (Los Angeles: UCLA Labor Center, 2019), https://www.labor.ucla.edu/publication/communityservice.

[4] *Id.*

[5] For related work, see Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* (Russell Sage Foundation, 2016); Sarah Picard et al., *Court-Ordered Community Service A National Perspective* (Center for Court Innovations, 2019), https://www.innovatingjustice.org/sites/default/files/media/document/2019/community_service_report_11052019_0.pdf; Herrera et al., *supra*; Fines & Fees Justice Center, *First Steps Toward More Equitable Fines and Fees Practices: Policy Guidance on Ability-to-Pay Assessments, Payment Plans, and Community Service* (2020), https://finesandfeesjusticecenter.org/content/uploads/2020/11/FFJC_Policy_Guidance_Ability_to_Pay_Payment_Plan_Community_Service_Final_2.pdf.

[6] Herrera et al., *supra.*

[7] Noah D. Zatz, "Get to Work or Go to Jail: State Violence and the Racialized Production of Precarious Work," *Law & Social Inquiry*, 45(2):304-338 *(*2020), https://doi:10.1017/lsi.2019.56.

[8] *See e.g.*, Maya Pinto, Rebecca Smith, and Irene Tung, *Rights at Risk: Gig Companies' Campaign to Upend Employment as We Know It* (National Employment Law Project, March 25, 2019), https://www.nelp.org/insights-research/rights-at-risk-gig-companies-campaign-to-upend-employment-as-we-know-it/

[9] Herrera et al., *supra*.

[10] Noah D. Zatz, "Working at the Boundaries of Markets: Prison Labor and the Economic Dimension of Employment Relationships," 61 *Vanderbilt Law Review* 857 (2008).

[11] 91 F. Supp. 3d 480 (S.D.N.Y. 2015).

[12] Alamo Found. v. Sec'y of Labor, 471 U.S. 290 (1985); United States v. City of New York, 359 F.3d 83 (2d Cir. 2004); Pietras v. Bd. of Fire Comm'rs of Farmingville Fire Dist., 180 F.3d 468, 472-73 (2d Cir. 1999).

[13] 892 P.2d 150 (Cal. 1995).

[14] *See also* Talley v. Cnty. of Fresno, 265 Cal. Rptr. 3d 663 (2020) (distinguishing *Arriaga* on this basis and finding no employment relationship where community service was substituted for jail time).

[15] Herrera, et al., *supra*.

[16] CONN. GEN. STAT. § 46b-140.

[17] HAW. REV. STAT. § 706-605.

[18] 730 ILL. COMP. STAT. 5/5-5-8.

[19] KY. REV. STAT. ANN. § 635.080; KY. REV. STAT. ANN. § 533.070.

[20] N.M. STAT ANN. § 31-12-3(B); N.M. STAT. ANN. § 31-20-6.

[21] S.D. CODIFIED LAWS § 23A-28-11.

[22] In *United States v. City of New York*, *supra*, the court held that "workfare" assignments were employment relationships in part because of a similar state law provision calculating

the hours of work assignments by dividing minimum wage into the value of public assistance benefits.

[23] The District of Columbia recently had a such a provision but repealed it in 2021. D.C. CODE § 50-2303.21 (2021), *repealed by* D.C. Law 24-45, § 7166 (Nov. 13, 2021).

[24] ALASKA STAT. § 12.55.055(c).

[25] CAL. PENAL CODE § 1209.5; CAL. PENAL CODE § 490.5.

[26] DEL. CODE ANN. tit. 11 § 4105.

[27] FLA. STAT. § 316.193; FLA. STAT. § 318.18; FLA. STAT. § 812.015.

[28] GA. CODE ANN. § 17-10-1; GA. CODE ANN. § 42-3-50.

[29] 705 ILL. COMP. STAT. 135/5-20; 705 ILL. COMP. STAT. 405/5-105; 730 ILL. COMP. STAT. 115/1.

[30] IND. CODE §§ 35-31.5-2-50, 16-31-3-14, 22-15-5-16.

[31] IOWA CODE § 909.3A; IOWA CODE §§ 907.6, 907.13.

[32] KAN. STAT. ANN. § 21-6604.

[33] LA. STAT. ANN. § 15:1199.24.

[34] MD. CODE ANN., CORR. SERVS. § 8-704.

[35] MASS. GEN. LAWS ch. 211D, § 2A; MASS. GEN. LAWS ch. 276, § 87A.

[36] MICH. COMP. LAWS § 257.625.

[37] MISS. CODE ANN. § 99-19-20; MISS. CODE ANN. § 99-19-20.1.

[38] MONT. CODE ANN. § 46-18-241(3).

[39] NEB. REV. STAT. §§ 29-2277, 60-4,100.

[40] NEV. REV. STAT. § 176.087; NEV. REV. STAT. §§ 630.352, 633.651.

[41] N.M. STAT. ANN. § 31-12-3; N.M. STAT. ANN. §§ 31-12-3, 31-20-6.

[42] OHIO REV. CODE ANN. § 2947.23.

[43] OKLA. STAT. tit. 22, § 991c.

[44] S.C. CODE ANN. § 24-23-115.

[45] VT. STAT. ANN. tit. 13, § 7180.

[46] WASH. REV. CODE §§ 9.94A.6333, 9.94B.040, 10.01.160, 10.01.180, 10.73.160.

[47] W. VA. CODE § 62-11A-1a.

[48] ARIZ. REV. STAT. ANN. § 28-1387.

[49] COLO REV. STAT. § 18-1.3-507.

[50] FLA. STAT. §§ 569.11, 569.42.

[51] GA. CODE ANN. § 42-3-51.

[52] IDAHO CODE § 72-205(7).

[53] 730 ILL. COMP. STAT. 5/5-5-7.

[54] IOWA CODE §§ 907.13, 85.59.

[55] KAN. STAT. ANN. § 60-3614; KAN. STAT. ANN. § 44-508.

[56] KY. REV. STAT. ANN. § 533.070(f).

[57] LA. CODE CRIM. PROC. ANN. art. 895.

[58] ME. STAT. tit. 14, § 158-B.

[59] MD. CODE ANN., CTS. & JUD. PROC. § 5-805.

[60] MINN. STAT. § 3.739.

[61] MO. REV. STAT. § 557.014.

[62] MONT. CODE ANN. § 39-71-118(1)(e).

[63] Neb. Rev. Stat. Ann. § 48-115(5).

[64] Nev. Rev. Stat. §§ 178.3975, 176.087, 62C.210.

[65] N.M. Stat. Ann. §§ 31-12-3(B), 31-20-6(D).

[66] N.C. Gen. Stat. §§ 15A-1342, 143B-1483.

[67] Ohio Rev. Code Ann. §§ 2951.02, 2919.22

[68] Okla. Stat. tit. 22, § 988.23.

[69] S.D. Codified Laws §23A-28-11.

[70] Tex. Code Crim. Proc. Ann. arts. 43.09, 45.049, 45.0492.

[71] Vt. Stat. Ann. tit. 28, § 760.

[72] Va. Code Ann. § 8.01-226.8.

[73] Wis. Stat. §§ 938.342, 304.062, 943.017, 961.495, 973.03, 973.05, 973.09.

[74] Haw. Rev. Stat. §§ 245-17, 712-1258.

[75] 730 Ill. Comp. Stat. 5/5-5-9; 720 Ill. Comp. Stat. 5/12C-60.

[76] Ky. Rev. Stat. Ann. § 533.070(4); Ky. Rev. Stat. Ann. § 533.070(1)(c).

[77] La. Stat. Ann. §§ 14:35.3, 14:81.1.1, 14:102.23, 40:966.

[78] Neb. Rev. Stat. §§ 29-2277, 60-4,100.

[79] Nev. Rev. Stat. § 176.087.

[80] N.H. R. Crim. Proc. 29.

[81] Okla. Stat. tit. 22 §§ 991a, 991c; Okla. Stat. tit. 21 § 1761.1.

[82] Tex. Code Crim. Proc. Ann. arts. 42.036, 43.09.

[83] W. Va. Code § 62-11A-1a.

[84] United States v. Kozminski, 487 U.S. 931 (1988).

[85] Pollock v. Williams, 322 U.S. 4, 18 (1944).

[86] Douglas A. Blackmon, *Slavery By Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (Anchor Books, 2008); Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (University of North Carolina Press, 2016). *See also* Kelly Lytle Hernandez, "Hobos in Heaven: Race, Incarceration, and the Rise of Los Angeles, 1880-1910," 83 *Pacific Historical Review* 410 (2014).

[87] Zatz, "Working at the Boundaries," *supra*.

[88] Opinion of the Justices, 431 A.2d 144 (N.H. 1981).

[89] State ex rel. Carriger v. City of Galion, 560 N.E.2d 194 (1990) (per curiam).

[90] American Civil Liberties Union & University of Chicago Law School Global Human Rights Clinic, *Captive Labor: Exploitation of Incarcerated Workers* (2022).

[91] 461 U.S. 660 (1983). However, such financial determinations have come under significant criticism (and legal action) for their varied and inconsistent application of assessment standards and racist discrimination. See, e.g., US DOJ, Office of the

Associate Attorney General, "Dear Colleague Letter," April 20, 2023. https://www.justice.gov/opa/press-release/file/1580546/download.

[92] In contrast, if someone with the ability to pay court debt was given the option of community service as an alternative and refused either to pay or to work, then there would be no constitutional infirmity under either *Bearden* or the *Peonage Cases*.

[93] W. VA. CODE §§ 62-11A-1a(f).

[94] ALASKA STAT. §12.55.051.

[95] NEB. REV. STAT. §§ 29-2262, 29-2278, 43-286, 83-1107.

[96] ARK. CODE ANN. § 5-4-803, 5-4-905.

[97] N.H. R. CRIM. PROC. 29; N.H. REV. STAT. ANN. § 604-A:2-f.

[98] CAL. PENAL CODE §§ 1203.097, 1210.1; CAL. HEALTH & SAFETY §§ 11350; CAL. PENAL CODE §§ 1203.1, 1205.3.

[99] N.J. STAT. ANN. §§ 2A:4A-43, 2C:45-1, 4:22-17, 39:4-36, 39:4-50, 39:6B-2.

[100] CONN. GEN. STAT. §§ 53a-28, 53a-30, 54-56e.

[101] N.C. GEN. STAT. §§ 15A-1343, 15A-1371, 14-277.8.

[102] DEL. CODE ANN. tit. 10, § 1004a; DEL. CODE ANN. tit. 11, §§ 4332A, 4105; DEL. CODE ANN. tit. 21 § 4176E.

[103] OHIO REV. CODE ANN. §§ 2911.23, 2919.22, 2929.27, 2951.02.

[104] FLA. STAT. §§ 901.41, 985.435, 948.01.

[105] OKLA. STAT. tit. 22, § 991b.

[106] IDAHO CODE § 20-520.

[107] OR. REV. STAT. § 144.106.

[108] 720 ILL. COMP. STAT. 550/10.

[109] R.I. GEN. LAWS §§ 12-19-2.2.

[110] IOWA CODE §§ 907.6, 907.13, 910.5.

[111] S.C. CODE ANN. § 24-21-110.

[112] KAN. STAT. ANN. § 22-3716.

[113] S.D. CODIFIED LAWS §§ 23A-27-18.3, 24-15A-48.

[114] KY. REV. STAT. ANN. §§ 534.070, 439.3107, 533.010.

[115] TEX. CODE CRIM. PROC. ANN. arts. 42.036, 42A.304; TEX. PENAL CODE ANN. § 38.113.

[116] LA. STAT. ANN. §§ 14:35.3, 40:966, 14:81.1.1, 14:92.2, 14:92.3, 14:82, 14:98.1-98.4, 14:98.6-7; LA. CODE CRIM. PROC. ANN. art. 893.5.

[117] VT. STAT. ANN. tit. 28, § 252; VT. STAT. ANN. tit. 13, § 7180.

[118] ME. STAT. tit. 22, § 1555-B.

[119] VA. CODE ANN. § 18.2-251.

[120] MICH. COMP. LAWS §§ 436.1703, 765.6b.

[121] WASH. REV. CODE §§ 9.94A.670, 9.94A.633, 9.94A.703, 9.94B.040.

[122] MISS. CODE ANN. §§ 99-19-20, 9-19-20.1.

[123] W. VA. CODE §§ 62-11A-1a.

[124] MO. REV. STAT. § 558.019.

[125] WIS. STAT. §§ 943.017, 973.03, 973.09.

[126] Noah D. Zatz, "Welfare to What?," 57 *Hastings Law Journal* 1131 (2006).

[127] ARIZ. REV. STAT. ANN. § 13-914; ARIZ. REV. STAT. ANN. § 28-1387.

[128] CAL. PENAL CODE §§ 1209.5, 4024.2.

[129] FLA. STAT. § 847.0141.

[130] GA. CODE ANN. §§ 42-3-52, 42-3-53, 42-3-54, 42-8-34, 42-8-102; GA. CODE ANN. § 16-12-171.

[131] 625 ILL. COMP. STAT. 5/6-303; 720 ILL. COMP. STAT. 550/10, 570/410, 646/70; 730 ILL. COMP. STAT. 5/5-6-3.4.

[132] LA. STAT. ANN. §§ 14:92.2, 14:92.3; LA. CODE CRIM. PROC. ANN. art. 875.1.

[133] MASS. GEN. LAWS ch. 211F § 1.

[134] MICH. COMP. LAWS § 722.642; MICH. COMP. LAWS § 769.31.

[135] MINN. STAT. § 609.135.

[136] MO. SUP. CT. R. 37.65; MO. REV. STAT. § 558.019.

[137] MONT. CODE ANN. § 46-18-201.

[138] NEB. REV. STAT. § 29-2262.

[139] NEV. REV. STAT. §§ 4.373, 5.055.

[140] N.J. STAT. ANN. § 2C:35-15.

[141] N.Y. VEH. & TRAF. LAW § 1198.

[142] N.C. GEN. STAT. §§ 15A-1343, 7B-2506.

[143] OHIO REV. CODE ANN. § 2929.17.

[144] 18 PA. CONS. STAT. § 6305.

[145] R.I. GEN. LAWS § 11-5-10.4; R.I. GEN. LAWS § 3-8-11.1.

[146] S.C. CODE ANN. § 24-22-100.

[147] TEX. CODE CRIM. PROC. ANN. arts. 43.09, 45.049.

[148] WYO. STAT. ANN. § 7-13-304.

[149] Blackmon, *Slavery by Another Name*, *supra.*

[150] Noah D. Zatz, "Get to Work or Go to Jail: State Violence and the Racialized Production of Precarious Work," *Law & Social Inquiry*, 45(2):304-338 *(*2020), https://doi:10.1017/lsi.2019.56.

[151] Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776–1941* (Cambridge University Press, 2008).

[152] Noah D. Zatz, "The Carceral Labor Continuum: Beyond the Prison Labor/Free Labor Divide," in *Labor and Punishment: Work In and Out of Prison* (edited by Erin Hatton, University of California Press, 2021)

[153] 42 U.S.C. § 607(f).

[154] John Krinsky & Maud Simonet, *Who Cleans the Park?: Public Work and Urban Governance in New York City* (University of Chicago Press, 2017).

[155] N.Y. PENAL LAW § 65.10.

[156] S.D. CODIFIED LAWS § 23A-28-2(1).

[157] Rebecca Dixon and Amy Traub, *Desegregating Opportunity: Why Uprooting Occupational Segregation is Critical Building a Good-Jobs Economy* (National Employment Law Project, 2024) https://www.nelp.org/insights-research/desegregating-opportunity-why-uprooting-occupational-segregation-is-critical-to-building-a-good-jobs-economy/.

[158] Lu and Zatz, *Minimum Protection, Maximum Vulnerability*, FN 3. On the carceral effects of "alternatives to incarceration," see Maya Schenwar and Victoria Law, *Prison by Any Other Name: The Harmful Consequences of Popular Reforms* (New York: New Press, 2021). On probation and parole supervision programs as "recidivism traps," see Vincent Schiraldi, *Mass Supervision: Probation, Parole, and the Illusion of Safety and Freedom* (New York: New Press, 2023).