

# OFFICE OF THE ATTORNEY GENERAL



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JIMMY EVANS  
ATTORNEY GENERAL  
STATE OF ALABAMA

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ALABAMA STATE HOUSE  
11 SOUTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (205) 242-7300

Honorable John W. Gibson  
Judge of Probate  
Pike County Courthouse  
Troy, AL 36081

Prisons and Prisoners -  
Counties - Compensation -  
Workmen and Laborers

County inmates may work on  
courthouse and jail premises  
and grounds.

County inmates, who work for  
the county and who are not  
under a county work release  
program, do not have to be  
paid wages.

Inmates, state or county,  
employed by the county under  
a county work release program  
must be paid the federally  
established minimum wage.

Dear Judge Gibson:

This opinion is issued in response to your request for  
an opinion from the Attorney General.

## QUESTION 1

May prisoners of Pike County and the State  
of Alabama housed in the Pike County Jail  
who wish to voluntarily perform work and  
labor be utilized by Pike County for the  
upkeep and maintenance of the county

premises including, but not limited to,  
the Pike County Courthouse, County Jail  
and the surrounding grounds and parking  
areas?

FACTS, LAW AND ANALYSIS

Code of Alabama 1975, § 14-5-5 provides:

"Nothing in this chapter shall prevent any county of this state from working its county convicts according to the law as it now exists or may hereafter be enacted, but no county convict shall be worked in any coal mine or worked under lease to any person, firm or corporation; provided, however, that any county or counties shall have the authority to work such convicts retained by it in and around the courthouse, in and around the jail or any other public building or works of the county."  
(Emphasis added.)

Thus, a county may cause county inmates to be worked on the county courthouse and jail premises and grounds. This conclusion was made in previous Attorney General opinions to Honorable James Earl Johnson, Sheriff, Chilton County, under date of September 27, 1979, and Honorable Mary Zoghby, Member, House of Representatives, dated July 8, 1982, A.G. No. 82-00433.

With respect to state inmates housed in county jails, I cannot find a provision of law similar to § 14-5-5 allowing state inmates to be worked on the courthouse and jail premises and grounds. Code, § 14-8-30, et seq., provides for work release programs by the county in conjunction with the Department of Corrections for county inmates and state inmates in county jails. Rules and regulations regarding state inmates participating in such programs are promulgated by the Department of Corrections. Section 14-8-31(c). Code, § 14-8-36 provides for work release inmates under these county programs to be employed by the county and to be paid the federally established minimum wage.

There may be other rules and regulations promulgated by the Department of Corrections regarding the use of state

inmates by the county to work on county property. You should contact that department regarding this matter.

#### CONCLUSION

A county may cause county inmates to be worked on courthouse and jail premises and grounds.

#### QUESTIONS 2 & 3

If your answer to Question #1 is in the affirmative, are the county and state inmates employed to perform work and labor entitled to compensation for their services?

If your answer to Question #2 is in the affirmative, may Pike County use its discretion to establish the level of compensation provided that it pays no less than the minimum wage established by federal law?

#### FACTS, LAW AND ANALYSIS

County inmates, who work for the county and who are not under a county work release program, do not have to be paid wages. Opinion of the Attorney General to Honorable Mary Zoghby, supra. As previously stated, any inmates, state or county, employed by the county under a county work release program must be paid the federally established minimum wage, as provided by Code, § 14-8-36.

#### CONCLUSION

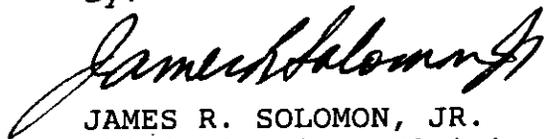
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I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS  
Attorney General  
By:



JAMES R. SOLOMON, JR.  
Chief, Opinions Division

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