

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

March 15, 2021

Opinion No. 21-03

TRICOR Contracts with Counties and Cities for Work Training Programs

Question

Effective June 22, 2020, the TRICOR Inmate Labor Act of 1994 was amended to provide that “TRICOR may enter into contractual agreements with counties and cities to provide work training programs . . . for prisoners incarcerated in county and city jails.” Tenn. Code Ann. § 41-22-415. Does the phrase “work training programs” in § 41-22-415 include “work release programs?”

Opinion

Yes. The phrase “work training programs” in Tenn. Code Ann. § 41-22-415 includes “work release programs.”

ANALYSIS

TRICOR was created by the TRICOR Inmate Labor Act of 1994, Tenn. Code Ann. §§ 41-22-401 to 41-22-415. “TRICOR” is the acronym for “the Tennessee rehabilitative initiative in correction,” a program that provides jobs and training for inmates and that is managed and operated for the State by the TRICOR Board. Tenn. Code Ann. § 41-22-404.

The TRICOR inmate program provides:

- (A) Manufacturing, business services or agricultural jobs for inmates, or any combination of those jobs;
- (B) The training and skill development necessary for inmate employment in manufacturing, business services or agricultural jobs and in placement in its post-release program; and
- (C) The marketing and sale of prison industry products and services.

Tenn. Code Ann. § 41-22-402(3).

“[T]he stated legislative mission for creating TRICOR work programs is to support inmate rehabilitation and reintegration post-release.” *Harris v. Tennessee Rehabilitative Initiative in Correction*, M2013-00501-COA-R3-CV, 2014 WL 1778349, at *1 (Tenn. Ct. App. April 30, 2014) (citing Tenn. Code Ann. § 41-22-403). The General Assembly has expressly charged TRICOR, as part of its statutory mission, to:

- (A) Work inmates in manufacturing, business services or agricultural jobs;
- (B) Offset the costs of incarceration by generating revenue through the sale of products or business services;
- (C) Develop work opportunities that minimize the impact on free-world jobs;
- (D) Integrate work opportunities with education and vocational training;
- (E) Develop good work habits and marketable skills;
- (F) Develop and operate a post-release placement system; and
- (G) Provide or create other programs and services as deemed necessary by TRICOR to support an inmate’s rehabilitation and reintegration efforts[.]

Tenn. Code Ann. § 41-22-403(2).

The General Assembly has given the TRICOR Board “such powers as are necessary to effectively carry out” the mission with which it has been charged, and it “is the intent of the general assembly that the board should be as free as is possible to operate its facilities and to pursue its mission with the principles of free enterprise.” Tenn. Code Ann. § 41-22-406(a)(1)(A). *See also* Tenn. Code Ann. § 41-22-408(e) and Tenn. Code Ann. § 41-22-414(a)(2).

In 2020, the General Assembly added Tenn. Code Ann. § 41-22-415 to the TRICOR Inmate Labor Act, giving TRICOR the authority to enter into contractual agreements with counties and cities to provide “work training programs” for prisoners incarcerated in county and city jails.

Whether “work training programs” as used in Tenn. Code Ann. § 41-22-415 includes “work release programs” is a question of statutory construction. When construing a statute, courts must ascertain and give effect to the legislative intent without unduly restricting or expanding a statute’s coverage beyond its intended scope. *State v. Strode*, 232 S.W.3d 1, 9 (Tenn. 2007). Legislative intent is determined from the natural and ordinary meaning of the statutory language within the context of the entire statute without any forced or subtle construction. *Id.* That is, words used in a statute “must be given their natural and ordinary meaning in the context in which they appear and in light of the statute’s general purpose.” *Mills v. Fulmarque, Inc.*, 360 S.W.3d 362, 368 (Tenn. 2012). When the statutory language is clear and unambiguous, courts apply the plain language in its normal and accepted use. *State v. Strode*, 232 S.W.3d at 9.

“Work training programs” is a broad, comprehensive term, and especially when it is read in the context of the express legislative intent in creating TRICOR, the broad scope of TRICOR’s mission, and in the context of the Act as a whole, that term clearly includes “work release programs.” The General Assembly’s express legislative intent is for TRICOR to provide prisoners with a broad array of work training programs, including jobs in manufacturing, business services or agriculture for rehabilitation and reintegration purposes. But the General Assembly has not limited or carved out exceptions to the work training programs that TRICOR may provide; to the contrary it intends for TRICOR to pursue its mission freely, Tenn. Code Ann. § 41-22-406(a)(1)(A), § 41-22-408(e), and § 41-22-414(a)(2), and has broadly delegated authority to TRICOR to provide any “other” programs and services that TRICOR deems necessary to support an inmate’s rehabilitative and reintegration efforts, Tenn. Code Ann. § 41-22-403(2)(G).

“Work release” is a narrower term; it refers to a specific kind of prisoner rehabilitative program that is available, for example, to prisoners in county workhouses. *See, e.g.*, Tenn. Code Ann. §§ 41-2-127 and 128 (establishing work release programs in county workhouses). A work release program is a rehabilitative jobs program that allows a prisoner who has been committed to the custody of a county workhouse or is in similar confinement “to leave the workhouse during approved working hours to work at a place of employment and to earn a living[.]” Tenn. Code Ann. § 41-2-134(b); *see also State v. Norton*, No. M2004-02791-CCA-R3-CD, 2005 Tenn. Crim. App. LEXIS 1170, at *6 (Crim. App. Nov. 7, 2005) (work release is not a form of probation).

Work release programs are generally understood to give the inmate a connection to the community with a focus on transitioning from confinement by providing post-release employment contacts and opportunities. Through these programs, prisoners acquire and maintain job skills, develop good work habits, and learn how to find and keep employment. They earn an income which is used to offset the costs of confinement. *See, e.g.*, Tenn. Code Ann. §§ 41-2-127 and 128 (establishing work release programs in county workhouses).

Work release programs are thus fully aligned with the purposes and mission that the General Assembly has set for TRICOR. Like work release programs, the purpose of the TRICOR inmate rehabilitative initiative is to provide vocational training and education and to develop and maintain post-release employment opportunities for inmates. Like work release programs, TRICOR’s rehabilitative mission expressly includes putting inmates to work in a wide variety of jobs, which allows them to generate revenue to offset the cost of confinement and to develop good work habits and job skills.

Thus, a work release program is simply one kind of work training program. Indeed, it would not make sense to read “work release program” out of “work training program” in Tenn. Code Ann. § 41-22-415 since that addition to the Act deals specifically with inmates in county and city jails—the very inmates for whom work release programs have been statutorily authorized. Any other reading would unduly restrict the legislatively intended scope of § 41-22-415.

In sum, the natural and ordinary meaning of the phrase “work training programs” in Tenn. Code Ann. § 41-22-415—when read in the context of the statute and its general purpose—is best construed to include the subset of “work release programs.”

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