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Prisoner's allowance and the complex Brazilian prison system.

The prison assistance benefit and the complex Brazilian prison Landscape

Assistance with incarceration and the Brazilian penitentiary complex

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SUMMARY

The Prisoner's Assistance Benefit is a benefit intended for the dependents of incarcerated individuals who contribute to Social Security. This benefit is surrounded by significant debate from legal doctrines that defend it, and others that disagree with its eligibility. This study aimed to understand, in part, the reality of the Brazilian prison system and to analyze the legal regulation process of Prisoner's Assistance Benefit and its changes over time. The methodology used was an exploratory literature review based on published scientific articles on the subject, doctrines, and respective jurisdictions involving the topic in Brazil. It was concluded that Prisoner's Assistance Benefit is a controversial benefit, related to low-income criteria, and that its implementation is influenced by discourses concerning the conditions of the Brazilian prison system, the income of the inmate and their dependents, and the classification of the crime committed.

Keywords: Prisoner Assistance, Prisoners, Brazilian Penitentiary System.

ABSTRACT

The "Imprisonment Allowance" is a benefit intended for the dependents of an incarcerated individual who was a contributor to the Social Security system. This benefit is the subject of significant debate within legal scholarship, with some perspectives defending it while others question its eligibility criteria. The present study aimed to gain an understanding of the reality of the Brazilian penitentiary system and to analyze the legal regulatory framework governing the Imprisonment Allowance, as well as how it has evolved over time. The methodology employed was an exploratory literature review, drawing upon published scientific articles, legal doctrine, and relevant case law concerning the subject in Brazil. It is concluded that the Imprisonment Allowance is a controversial benefit—linked to criteria regarding low income—and that its implementation is shaped by discourses surrounding the conditions of the Brazilian penitentiary system, the income of the incarcerated individual and their dependents, and the classification of the crime committed.

Keywords: Imprisonment Allowance, Incarcerated Individuals, Brazilian Penitentiary System.

1. INTRODUCTION

Imprisonment Assistance is a social security benefit granted to the dependents of an insured person who...

is incarcerated, serving a prison sentence in a closed regime within the Penitentiary System

Brazilian. This resource has undergone several interventions and changes over time, the most significant being...

One of the controversial aspects is the requirement of "low income" to receive it, with specific values.

pre-established by the government.

This change is considered unconstitutional by many scholars and professionals in the judicial field, a

since it protects those who conform to the rules, but excludes those who do not fit them, and harms the

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The principle of equality establishes that all are equal before the law, without distinction of any kind.
nature, as provided for in Article 5, I of the Constitution of the Republic.
One of the problematic aspects of this issue is that prisoners carry a very heavy stigma.
Society. He is not well regarded, and he is not trustworthy, and the prison system that should be rehabilitating him...
and return it to collective living in better condition, has often not been possible.
materials, legal and structural aspects to accomplish this with due efficiency.
The relevance of the topic lies in the fact that we live in a society where violence is on the rise, and with
She argues that rights are becoming more effective on paper than in practice, so we must not regress and
Yes, to keep ourselves informed and active, especially as future legal professionals, collaborating with...
A cog in the public machine in the arduous task of preserving constitutional rights.
From this perspective, the main objective of this study was to understand the specific conditions for the
Regarding the receipt of prison assistance benefits, what changes have occurred within the law at different periods?
Historical context, who benefits from it, its prerequisites and conditions. It should be noted that, to speak with
In order to further protect this and other rights of the prisoner, it was also necessary to navigate through the
realities of the profile of the Brazilian prison population and our penitentiary system. Without knowing
Regarding part of this territory, it would be inconsistent to discuss the difficult issues related to the Prisoner's Assistance program and its...
importance.

2. METHODOLOGY

The methodology adopted for the development of this work is a review.
This bibliographic study was exploratory in nature, as it was conducted with the aim of gaining a better understanding of the subject.
presented, its conditions, norms, and the social context in which it is embedded.
My interest in the topic arose from knowledge of the major conflicts that exist within the context.
academic, with much discussion about how prison assistance is granted and the criteria.
legal instruments used for this.
The work was based on the respective doctrines and jurisdictions involving the laws that
They legally guarantee the prison assistance benefit.

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3. The Prison Population in Brazil and the Penitentiary System: A Necessary Analysis

A prisoner is someone who is deprived of their freedom and subject to the power of the State. With the transgression...
Once a crime is committed, it is up to the State to determine the penalty for punishing the criminal act.
Punishment is always aimed at imposing the loss or reduction of legal rights, within the limits of...
The sentence and the defendant have a duty to submit to the law (FRAGOSO, 1989).
At the moment when a person commits a crime against another person and/or against the law, and becomes liable...
At the mercy of justice, he becomes an enemy of society. The chaos, the explicit violence that...
The Brazilian population faces and witnesses daily the harsh reality of a sick society, and the
There are many causes for these tragic consequences, which generates great outrage on this subject.
Defending prisoners and ensuring their rights often seems unfair. And this idea is implicit.
in collective thought. On this, Fragoso (1989, p.5) says that:

> The idea that prisoners have no rights is an old one. The condemned is cursed (sacer esto) and, suffering the punishment, is the object of the utmost condemnation of the community, which deprives him of all the protection of the legal order he dared to violate. The criminal is execrable and infamous, a servant of punishment, loses his peace and is outside the law. In old English law, the *outlaw* could be killed by anyone, because, as the texts themselves said, "he who does not wish to live according to the law may be put to death meritoriously without the protection of the law."

This idea is reinforced by the fact that Primitive Law imposed a penalty on the criminal of
expulsion from the group (which represented his death). The prisoner before the regulation of laws regarding his
His rights were subject to an indissoluble, absolute power from his prisons, without any possibilities.
of defense. Despite the changes achieved in this area even today, the rights of prisoners
This is a topic of extensive discussion (FRAGOSO, 1988).
The prisoner carries a terrible image and has a poor social standing, which is understandable, because through
As a result of his actions, he harmed other people. Medeiros Paiva (2014) highlights that stigma is a type of
perception of individual attributes considered outside the standard or norm by pre-established values
established. The stigmatized person may be discredited, that is, someone whose stigma is already evident.
From the outset, we can say that the prisoner is stigmatized by their condition. And it is necessary to have...
Balance and fairness are needed to fulfill what the law dictates, without taking this discussion into an analysis.
personal, but rather legal, because if it were otherwise, as we can see, from time to time some people would face
It's a crime; they want to punish the criminal by taking justice into their own hands.

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After these considerations regarding the concepts of prisoners, it is necessary to look at this class in Brazil.
seeking to gather data that will serve as the foundation for a realistic overview of their profile. Gama (1997),
He states that, regarding Brazilian convicts under the law of execution of sentences, they receive good assistance.
However, in reality, the truth that emerges is quite different. Serious deficiencies are found, whether in
public jail, penitentiary, colony, hostel or hospital, and the main objective of prison is to
The rehabilitation of the convict becomes null and void, according to a realistic analysis.
The same author reports that there are many legal assistance rights for convicts, which can be divided...
in:

> a) Material: consists of good food, clothing, and hygienic facilities; b) Health: understood as medical, pharmaceutical, and dental treatment; c) Legal: includes free legal assistance; d) Educational: encompasses school and professional training; e) Social: responsible for preparing the prisoner for reintegration into society; f) Religious: consists of participation in religious activities, such as masses and services; e) Reintegration: understood as the guidance and reintegration of the prisoner into society (GAMA, 1997, p. 84).

With so many rights guaranteed, if they were fully implemented, the incarcerated person
in the Brazilian prison system, he would be fully enjoying his rights and his chances of
Rehabilitation would be much more promising. However, the prison system faces numerous challenges.
problems and challenges of different kinds. This reality does not only affect the prison system,
But public institutions in general, such as those in the areas of housing, transportation, education,
health, etc. There is also inefficient management in generating effective public policies to solve problems.
problems with a major social impact. And sometimes public policy exists, but it fails to be effective.
applied in its entirety due to various external factors that hinder its literal execution. On the other hand,
There is also weariness and distrust on the part of the population regarding political leaders, given that
large and routine corruption scandals, which cause complete insecurity among the population,
begins to lose faith in the Brazilian systems and justice system (DA SILVA, 2025).
The big problem is that the prison system in Brazil is fundamental, especially in these times.
in which there is increasing crime and violence in society. Adorno (1991) says that, among the
Scholars in our country generally held the idea that it is not possible to understand the movement of
Urban crime and ignoring the implementation of public criminal policies. Both things are
linked to this, it is necessary to maintain public order, preserving the sacred principles of the law.
which must ensure the protection of citizens' civil rights, especially by organizations defending them.
human rights. Some of these public policies are aimed at preventing crime,
to provide custody for citizens convicted by the justice system (prison assistance and maintaining the prisoner in jail) and finally,
to provide security to the population.

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To understand the dilemmas of the Brazilian prison system, we need to go through the increase of crime in Brazil, which was the central factor in the chaos that ensued. According to Adorno (1991, p.69):

> The growth of violent urban crime in the 1980s, a phenomenon experienced mostly by large and populous Brazilian cities, impacted crime control agencies. This impact pressured the expansion of judicial police and surveillance services, altering established routines, inclining agents to seek alternative methods and temporary arrangements, and causing an immediate reallocation of material and human resources, the result of which seems to have affected and influenced the operationalization of security and justice policies.

During that period, there was a much greater increase in the demand for prison services than the system could handle. The judiciary and prisons, as physical and social spaces, were not prepared to receive them, and this had an impact. partly due to the functionality of policies aimed at this sector. Working under pressure from scarcity. In terms of essential material and human resources, what can be observed is that the creation of informal mechanisms of operation, leaving some institutional formalities in the background. (ADORNO, 1991). This serious flaw, stemming from a lack of structure in the face of rising crime, This resulted in the creation of a space for competing interests, conflicts, power struggles, and control of order. public figures among the population of protagonists: criminals, victims, and agents.

Regarding the increase in the prison population in Brazil, the National Council of Justice (CNJ) has released a new version of Geoprisons, a platform launched in 2011 that brings together Current information on inspections in the Brazilian prison system and other detention facilities. Freedom. There were 1,836 establishments inspected in the last three months of 2024. (October, November and December). An occupancy rate of 150.3% was identified, exceeding the target. Capacity for 242,891 prisoners. In summary, there are 483,258 spaces for 726,149 people deprived of their rights. freedom. The platform provides additional data such as the type of regime, form of custody, distribution. by sex and specific groups, and allows access to monthly inspection reports and analysis of georeferenced data (CNJ, 2024).

According to the latest published statistical data from the Penitentiary System, 19th cycle SISDEPEN - Reference period: July to December 2025, the prison population in Brazil as of December 13th. The population in December 2025 was 727,301. Of these, 693,813 were men and 33,488 were women. The prison capacity during that period was 505,267, which demonstrates the overcrowding of the prisons. generating a job deficit of 222,034 on average (SENAPPEN, 2025). Thus we can truly To understand the gravity and extent of the prison problem in Brazil, research data reveals a A very significant increase in crime and the number of prisoners.

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Assis (2008) lists important aspects of the problems related to the prison system.

Among the problems in Brazilian prisons, we can mention the overcrowding of cells, as well as their precarious and unsanitary conditions.
which fosters the proliferation of epidemics and diseases such as pneumonia, the poor nutrition of prisoners, in
In many cases, these individuals suffer from a sedentary lifestyle, drug use, and poor hygiene. Dental health is...
highly precarious, generally limited to tooth extraction. Chronically ill prisoners with
AIDS, cancer, mental disorders, paraplegia – all these conditions don't always receive the proper care.
These aspects end up being a second condemnation due to the lamentable state in which they come to live.
Therefore, we can see that there are many fundamental flaws in the prison system, and this
This causes irreparable harm during the execution of the sentence, which should be a time of...
resocialization. It is necessary at this point to analyze what the function of serving the sentence is.
subject in the prison system. According to Santos; Rodrigues (2010, p.19),
The judge will apply the penalty with two purposes in mind: to condemn the unjust wrong committed by
The offending agent, and prevention, whose purpose is to resocialize the offender so that he does not return.
to deter crime, as well as to prevent new crimes from being committed by potential offenders.
The purpose of criminal punishment, therefore, is to make the individual accountable for their wrongdoing.
to invest in their reintegration into society during this period with the goal that upon completing their allotted time in
prison, so that he can return to society with a new mindset and attitude, so as not to violate the law again.
But given the difficulties described in the Brazilian prison system, where
Even the cells are overcrowded and there are so many basic problems, how can one...
Can an individual be rehabilitated in this environment?

And it's not just the precarious material aspects, of space, hygiene, and medical care that are at stake.
question. Although we are supported by an arsenal of laws and legal statutes that defend the
Prisoners' rights, and that various conferences and conventions take place, such as the Universal Declaration of
Human Rights, the Rights and Duties of Man, and the protection of the rights of men imprisoned for
For example, we also have specific legislation – the Penal Execution Law – sections I to XV of article 1.
41, which provides for the sub-constitutional rights guaranteed to the sentenced person during the course of
In criminal enforcement, in practice, we are quite unbalanced in relation to what the law dictates. Assis (2008, p.75)

This reflects that:

In the legislative field, our executive-penal statute is considered one of the most advanced and
existing democratic systems. It is based on the idea that the execution of prison sentences should
based on the principle of humanity, and any form of punishment that is unnecessary, cruel or
Degrading treatment is inhumane in nature and contrary to the principle of legality. However, it occurs in
The practice involves the constant violation of rights and the total disregard for the legal guarantees foreseen in the execution.

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of prison sentences. From the moment the prisoner comes under the State's custody, he no longer
He loses not only his right to freedom, but also all other fundamental rights that he does not
They were affected by the sentence, and began to receive despicable treatment and suffer all sorts of abuse.
of punishments, which lead to the degradation of their personality and the loss of their dignity, in a process
which offers no conditions to prepare for their useful return to society.
Another point highlighted by Assis (2008) is the need for continuous professional qualification, for
prison officers, police officers, and other professionals who work within the prison system.
Brazilian. It is also necessary to better analyze and punish the corruption that exists in prisons than in some other countries.
These cases occur on the part of those who should ethically comply with what the law dictates, but instead take unethical paths.
illegal activities breaking the rules and benefiting inmates, maintaining a parallel hierarchy of
granting power to prisoners. Another important legal violation committed is the delay in...
to grant benefits that justify progression of the prison regime, or to release prisoners who have already served their time.
That's a shame. This is yet another of the very serious problems of overcrowding, the slowness of the judicial process that...
It hinders the system. And we can also mention that, in some prisons, this practice is still observed today.
of torture and physical assaults among prisoners, prison guards, and police officers. In addition to the riots.
which generate a state of public calamity.
With all this analysis of the very serious problems in the Brazilian prison system, it becomes easier
to understand the different schools of thought that defend the rights of prisoners, such as the Aid-
Seclusion.

4. Imprisonment Assistance Benefit: A Brief History

Among the benefits available to prisoners in Brazil, one of the most controversial is the Prisoner's Assistance.
'Auxílio-Reclusão' is a benefit guaranteed to Brazilian citizens as stipulated in the Federal Constitution and
Regulated in the Social Security Benefits Law. This benefit is granted to dependents.
of the insured person who is incarcerated and therefore unable to provide for their family's needs.
dependents, due to serving a prison sentence in the Brazilian Penitentiary System. To
Throughout history, the Imprisonment Assistance program has undergone several changes since its creation, aiming to...
better adapt to the different realities and needs experienced in practice (CHIES, PASSOS,
2015).
According to Pacheco (2009), this benefit was first included in Brazilian legislation in 1933.
through the organization of the Institute of Retirement and Pensions for Seafarers - IAPM - by decree
Law No. 22,872 (repealed by Decree No. s/n of 1991). In 1934, it was amended by decree.

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No. 54, where the Institute of Retirement and Pensions for Bank Employees (IAPB) was organized. In 1960,
Through the Organic Law of Social Security (LOPS), it came to encompass all insured individuals.
Social Security, which was a very important step towards broader equity for the population.
It is worth highlighting that the "Organic Law of Social Security" established by Law No. 3,807 of August 26
The first national regulation to establish the Prisoner's Assistance program was enacted in 1960. At that time, a...
a waiting period of 12 monthly contributions is required for the granting of the same. In 1988, with the
With the Constitution of the Republic, the benefit then achieved its constitutional place. There was also a
amendment regarding Imprisonment Assistance, on December 15, 1998, which added to the requirements the
The "low income" factor, therefore Constitutional Amendment No. 20 to Article 201 became as follows:
Article 201. Social security shall be organized in the form of a general, contributory, and...
mandatory membership, subject to criteria that preserve financial and actuarial balance, and will meet the following requirements:
In accordance with the law, the following applies: I – coverage for events of illness, disability, death, and old age; II –
protection of maternity, especially for pregnant women; III – protection of workers in situations of
involuntary unemployment; IV – family allowance and imprisonment allowance for dependents of insured persons
low income; V – survivor's pension for the insured person, male or female, to the spouse or partner and
dependents (BRAZIL, 1988).

According to Ferreira (2010), amendment no. 20/98 changed the wording of article 201 of the Constitution and was the
responsible for granting the Imprisonment Allowance to the dependents of all social security beneficiaries,
restricting it only to low-income insured individuals. This measure was heavily questioned regarding its...
constitutionality, but the decision was approved in May 2009 by the Supreme Federal Court (STJ).
Therefore, meeting the "low income" criterion is required to receive the Imprisonment Assistance benefit.
A specific monthly capital is required. If this amount is exceeded, the payment will not be granted.
Raupp (2009) wrote about the aspects of the unconstitutionality of the "low income" requirement in
granting of the Prisoner's Assistance. For this author, this constitutional amendment that included the criterion of
The requirement of "low income" to receive the benefit was a fact that left the dependents of the insured person unprotected.
income exceeds the stipulated value, therefore an unconstitutional act was committed, protecting some, and
exposing others to the restriction of their rights.
Raupp argues (2009, p.68):

> In fact, the rule is unreasonable in leaving the dependents of an insured person with gross income exceeding the legal limit without support, since the purpose of the benefit is precisely to replace the income of the insured person who is imprisoned and therefore unable to work. Whether the family is in need or wealthy, the rationale is the same: the absence of the provider leads to the need for replacement through social security benefits, presuming the needs of the dependents.

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This change in the law caused aversion in the legal and academic community regarding its basis, a since such a measure is considered discriminatory, which violates the principle of equality (article 5, I of the Constitution of the Republic). In fact, for those who share this opinion, this law excludes from the list. of beneficiaries of the Imprisonment Assistance program, the dependents of an insured person with income above the permitted level, by depriving them of a social right considered fundamental, which is the right to social security, reverted into benefit to the insured person's family members (DE CASTRO, 2025).

The "low income" criterion made the benefit accessible only to dependents of insured individuals whose If income was below a certain limit. In 2019, another change occurred. There were Prisoners in semi-open regimes were excluded from the possibility of granting the benefit, which was restricted. only to dependents of insured individuals serving sentences in closed prisons. In the same year, it became A 12-month waiting period for monthly contributions has been established for the granting of the benefit, as per Article 10 of Law No. 13.846/2019. Furthermore, in 2021, Law No. 14.133 changed this period to 24. months of waiting period, requiring that the insured person had made monthly contributions of a certain value. equal to or greater than the minimum wage in the 12 months prior to the month of imprisonment. All these changes Legislative changes have impacted access to benefits, primarily affecting dependent children. insured, compromising the realization of their fundamental rights and the promotion of social justice. (BRAZIL; LOPES; MELEU, 2024).

Another historical factor in the context of this topic is PEC 30/2011 - Proposed Amendment. Constitutional amendment that alters article 201 to provide for the Prisoner's Assistance and the creation of opportunities. prisoner labor. The proposal, an initiative of Deputy Fernando Francischini, aims to The argument is based on the fact that with the high growth of the Brazilian prison population, there has been an increase in... also the types of punishment given to very serious crimes such as pedophilia, among others. Given this The chaotic reality has led to much discussion regarding the payment of the Imprisonment Allowance to individuals who... commit these cruel crimes (BRAZIL, 2011). PEC 30/2011 has not yet been approved.

This represents that duality of interpretation — between social protection for the family of the insured worker. and the public demand for stricter punishment in the prison system — this is one of the aspects that confers complexity to the topic. Chies and Passos (2015) question the political initiative of the PEC and refer to it. as an important example of punitive populism, insofar as it recommends that the use of The legal right exercised by politicians is directed in three directions: that harsher penalties can reduce the crimes, that the penalties help to reinforce the existing moral consensus in society and that there are gains electoral results generated by these initiatives.

These authors state:

> Without going into further detail here regarding the various inadequacies of the proposed constitutional amendment, it is relevant to highlight that its content and justification reveal a...

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> complementary dialogue both reinforces the opposition between the world of work and the world of crime – an opposition that then separates the “good citizen” and the one who “took a wrong step” from the “infamous men” and, finally, from the enemies (gradually deprived of rights before the group) – with the historical rejection of social protection for those who, capable of working, do not do so (and, currently, at least according to the standards of work useful to the designs of a capitalist economy), as well as renewing the political uses that contribute to the reinforcement of a social imaginary of segregation and denial of rights to the prisoner and their relatives (family and dependents), since it seeks to sustain its alleged legitimacy in a dialogue of complementarity between its proposals and the social representations that are constructed’ (CHIES; PASSOS, 2015, p.710).

Therefore, the proposed constitutional amendment is contested by these authors who analyze the political interests behind this decision.

above human rights, in a judicial articulation that is not adequate in light of their arguments. But

The fact is that PEC 30/2011 is a measure that has not yet come into effect; however, it is part of the controversies.

in this universe of laws concerning prisoners in Brazil.

In addition to recounting the troubled history of the Roque Imprisonment Assistance program (2015), it mentions PEC 304/013.

which was presented by congresswoman Antônia Lúcia (PSCAC). It refers to another controversial measure regarding the

Imprisonment Assistance. For a better understanding of this benefit, the author describes the changes to it.

that were in effect in the year 2015:

> Until the beginning of this year, the benefit was calculated based on the average of all the incarcerated person's salaries, without a waiting period. From January 14, 2015, with the entry into force of Provisional Measure 664/2014, which amended Law 8.213/1991, many changes occurred, including the requirement of a waiting period. Thus, for incarcerations occurring from March 1, 2015 onwards, a waiting period of 24 (twenty-four) monthly contributions is now required, without loss of insured status between them' (ROQUE, 2015, p.28).

The increase in contributions required to access the benefit, as well as all the obstacles surrounding it,

They have accompanied it since its inception, and as this author makes very clear with PEC 304/013,

There is interest from part of the system in eliminating the benefit. The amendment in question alters clause...

IV of article 201 and adds item VI to article 203 of the Federal Constitution, to extinguish the

Imprisonment Assistance and creating benefits for victims of crime.

According to Roque (2015), such an amendment is justified by following uninformed arguments regarding the payment of

A benefit to the prisoner's family members that would be a policy that encourages the commission of crimes. According to

Full excerpt from the document:

> Although the criminal's family, in most cases, has no influence on him committing the crime, they end up benefiting from criminal acts involving robbery, since the income is also used to benefit the family. Furthermore, the fact that the criminal knows that his family will not be left completely destitute if he is imprisoned can facilitate his decision to commit a crime. (Chamber of Deputies - Proposed Amendment to the Constitution No. 30, of 2013).

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The purpose of the amendment is clear, and visibly unfavorable to the benefit, when analyzed as a
This is an incorrect way of favoring the prisoner's family, due to their reprehensible attitude, and even being a
incentive for him to commit new crimes since the family will benefit. Roque (2015) reiterates that
This idea is deterministic and stereotypical, and it reinforces prejudices and biases.
incomplete opinion, hindering the much-needed transformations for the reduction of
crime. The author also criticizes the media hype surrounding the topic, reinforcing...
a misunderstanding in the reproduction of information that makes the Imprisonment Assistance seem
a privilege granted to criminals:

PEC 304/2013 is awaiting deliberation by the Constitution, Justice and Citizenship Committee.
(CCJC) and, in parallel, the Chamber of Deputies is conducting a poll to find out if internet users are
in favor of or against ending the payment of the Prisoner's Assistance and creating a benefit for the
victims of the crimes. More than 1,600,000 votes have been counted, with 95.51% in favor of the PEC;
3.96% are unfavorable and 0.53% have no opinion formed'. (ROQUE, 2015, p.30).

These misguided initiatives that are publicized on social media generate discontent among...
People participate in these surveys because they compare workers' salaries.
of being good, honest, a taxpayer, and fulfilling one's duties, regardless of the value of the benefit.
Received for family members of inmates who failed to fulfill their duties to society, causing harm.
people, or assets, and still benefit from a salary that is sometimes higher than that of the worker.
honest for their families. There is no methodological and legal clarification of the details.
bureaucratic hurdles in granting the benefit, and in a society already weary of its inequalities and
There are very serious problems with impunity; the opinions formed are shallow and always full of biases.
personal feelings, such as indignation and outrage (PEREIRA, 2024).

In addition to this aspect of PEC 30/2013, it is also stipulated in its "Article 203-VI:

> The guarantee of a minimum monthly benefit to the victim of a crime, for the period they are unable to work and earn a living, and, in the event of the victim's death, the conversion of the benefit into a pension for the spouse or partner and dependents of the victim, as provided by law. Sole Paragraph. The benefit referred to in item VI of this article cannot be accumulated with benefits from the social security schemes provided for in Article 40, Article 137, item X, and Article 20. (Chamber of Deputies - Proposed Amendment to the Constitution No. 30, of 2013).

In other words, the intention is to benefit and support the victims of criminals and their families when the crime occurs.
It causes lasting damage and hinders the victim's ability to earn a living. This parallel between
criminal and victim, it makes a lot of sense. Because on the one hand, the inmate needs legal support so as not to...
To abandon his family while serving his sentence, why not the victim, who deserves to be spared?
Should attention be given in the same proportions as rights? This is undoubtedly a discussion that involves a

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A profound analysis of the social and legal structure of Brazil as an unequal nation also moves towards a
A discussion of human rights, an analysis of justice and injustice, which is a complex web of
All of these aspects are important and open to discussion. However, the aforementioned proposed constitutional amendment never came into effect.
and was archived by the Board of Directors of the Chamber of Deputies on January 31, 2015, based on
Article 105 of the House Rules, given the legal controversies and technical resistance from experts in social security law
and human rights (FÉLIX, 2015).
Based on the surveys conducted so far, the topic of Prisoner's Assistance has significant conflicts.
doctrines since, on the one hand, without a doubt in most cases, the imprisonment of the provider
(a) of a family, generates difficulties in the material and economic field for those who need it,
especially underage children, and if this support did not exist, many families would be left...
even more exposed to social abandonment. Proponents of this initiative start from the premise of the State.
which should promote well-being, emphasizing that this applies not only to the State but to all stakeholders in the situation.
Social workers should strive for the common good; in this case, the purpose of the benefit is to minimize the...
The difficulties faced by an insured person who becomes unemployed are therefore necessary to understand...
that this is a right that every insured person possesses, since they contribute to social security, and that, in this, they are...
It differs from welfare benefits because it is not assistance but rather a right when
the insured person is going through certain legal proceedings. Alternatively, we have the victim, and
the questioning of their rights, a population tired of seeing impunity, and feeling wronged in
guaranteeing rights for criminals. We have a huge prejudice from society regarding...
The receipt of this benefit, the way it is granted. And it is precisely these different views and
analyses, combined with the complex Brazilian social landscape that gives rise to so many discussions and conflicts in
academic, legal and public opinion circles (MARMOL, 2021).

4.1 Receiving Imprisonment Assistance: current rules

Several parameters currently guide the Imprisonment Assistance benefit, for example, this benefit has...
of a substitutive nature, since its value cannot be less than the national minimum wage, and consists
also a minimum number of contributions from the insured person as stated in the rules.
consolidated by Provisional Measure No. 871/2019, which requires 24 months of contributions being
Therefore, proof of this contribution is necessary on the date of their imprisonment.
Another important aspect is that the insured person cannot be receiving remuneration from their employer.
and not be receiving social security benefits such as temporary disability allowance (assistance-
sick leave), retirement, maternity pay, survivor's pension or seniority bonus.

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The benefit will be suspended if the insured person is already receiving any of these incomes.
dependents will not be entitled to the same , The payment of the benefit, if it is being received, will be...
terminated/suspended (LEITE, 2025).

According to the Federal Superior Court (STJ), the main rules of the Imprisonment Assistance program are...
The information regarding Theme 1.421 – 2026 refers to the benefit start date (DIB), if performed outside the deadline.
That's right, the DIB (Date of Commencement of Benefits) is set on the date of the administrative request, not on the date of the insured person's imprisonment.
Regarding the retroactive period, the Imprisonment Assistance benefit does not retroactively apply to the date of imprisonment, if the
The benefit is requested after the legal deadline (180 days), according to the changes in Provisional Measure No. 871/2019 and
of Law No. 13.846/2019. Regarding minors under 16 years of age, in accordance with the understanding established in Topic 1.421 of
STJ, the start of the financial effects of the benefit and also of the survivor's pension requested by a child.
For minors under 16 years of age, the benefit does not retroactively apply to the date of death or imprisonment if the request is made after the date of death or imprisonment.
The 180 days from the event. There is also the statute of limitations which, although it does not run against those incapable before the age of 16.
years (art. 198, I, of the Civil Code), does not guarantee the full financial retroactivity of the benefit if the
The request exceeds the established deadline of 180 days (STJ, 2026).

In this way, the criteria for receiving [the benefit] are very clear, safeguarding the rights of minors and...
incapacitated individuals as defined by law. After all, the central objective of the Prison Assistance program is to support the dependents of...
The insured person is not entitled to receive the benefit while he remains incarcerated; in other words, the benefit is not provided.
The benefit will not be granted directly to the prisoner, but rather to their dependents. The benefit will only be granted to the prisoner.
to the dependents of the insured person who is imprisoned under a closed regime. Regarding the criteria for the
insured person with "low income" as defined by law, just like the family allowance, this benefit is exclusively for
these subjects, therefore only those who meet the required criteria will have access to it (DA
SILVA, 2021).

Let's look at the "low income" criteria for the year 2026, which were published through the Ordinances.
Ministerial and Interministerial bodies, through the Single Registry (CAD) for Government Social Programs
Federal, which is an instrument that identifies and characterizes low-income families. From this perspective,
Families with a monthly per capita income of: are considered low-income families.
Up to half the minimum wage per family member (equivalent to R$ 810.50). Total family income up to 3 minimum wages.
minimums per month , which is equivalent to R$4,863.00 (CAD, 2026).

In 2026, the low-income criterion for eligibility for the Prisoner's Assistance benefit will still require that the average of
The insured person's contribution wages in the 12 months prior to imprisonment must be up to R$ 1,980.38. Also
A waiting period is foreseen with the fulfillment of 24 monthly contributions to Social Security before...
prison. The benefit amount corresponds to 1 minimum wage, which is R$ 1,621.00, this amount being divided
The benefit can only be received if the insured person is ineligible to receive the benefit, divided equally among eligible dependents.

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Imprisoned in a closed regime. With so many changes, there has been a significant drop in the granting of benefits.
The federal government has reduced the granting of Prison Assistance benefits by approximately 70%, which, in comparison...
The number of beneficiaries has fallen from 26,585 in 2016 to 7,329 in recent years, with fluctuations.
around 16,024 in INSS assessment periods (SUASSUNA, 2026).
Therefore, it is evident that greater clarity on the part of social security regarding the bases is needed.
legal issues involving the Prisoner's Assistance program, and the regrettable and significant increase in population.
Prisoner experience contributes to solidifying the understanding regarding its granting. There is
There is still a lack of information about the beneficiaries of the Imprisonment Assistance program today, which
This approach does not allow for a more consistent analysis for more comprehensive studies and findings about who this
dependent person is, and their profile within the social context. A partial view of this approach is possible, which
It is more focused on the characteristics of the incarcerated person, and not on those outside the system.
prisoner, enjoying the benefit.
The application for this benefit is made directly at the Social Security service centers and not
Is there any geographical distribution criterion with priorities for receiving it?

FINAL CONSIDERATIONS

This study found that the Imprisonment Assistance benefit is clearly one of the benefits
legally guaranteed rights that deserve significant attention in the debates surrounding them. Research them.
This topic contributed to the understanding of the many divergent analyses of the authors mentioned here.
and the various legal changes and amendments generated around it, seeking to alter it, defend it or
restrict it to a specific social stratum.
Legal scholars who defend the Prisoner Assistance benefit and the way it is granted, justify it by...
that it is essential to support and protect the family of that inmate whose freedom has been restricted, and
that, being insured by social security, they should benefit from their contribution being used for this assistance, so that
can continue to provide for their family's livelihood in the event of circumstances that make it impossible to...
maintenance, on their own account, of their basic needs.
One of the major problems surrounding the Prisoner's Assistance program stems from the fact that, in the past...
There was a collective awareness that retirement and pensions were always associated with
Social Security, but the Imprisonment Allowance, due to its distinct characteristics, was unknown and
This is less common in the Brazilian social security system. Therefore, we can understand that there is a deficiency.
lack of knowledge about the subject, which leads to persistent prejudice regarding its granting.

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However, during the research, it was observed that even the most opposing opinions have good...
strong arguments and foundations regarding the paths of defense or deprivation of rights of convicts.
Brazilians and their dependents. There is a counterpoint that raises the legal gaze towards the victim. The damage
Will the harm she suffered be remedied simply by arresting her attacker? She will not receive any kind of support.
material, while the author's dependents begin to enjoy this right despite having broken the law? And
When the crime is cruel, then this discussion intensifies even further.
Regarding the social reality in Brazil as it pertains to the rights of prisoners, we therefore have a path...
It is arduous and lengthy for a prison system to function and truly fulfill its purpose.
for which it was created, to return prisoners to society with new life dynamics, capable of living by
in a peaceful and productive way.

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