ENGROSSED HOUSE
BILL NO. 2950

By: Fields of the House

and

Brown of the Senate

An Act relating to prisons and reformatories; amending 57 O.S. 1991, Section 563.2, as last amended by Section 2, Chapter 203, O.S.L. 1993 (57 O.S. Supp. 1995, Section 563.2), which relates to private prison contractors; authorizing employment of certain convicted felons for drug and other substance abuse rehabilitation programs; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 57 O.S. 1991, Section 563.2, as last amended by Section 2, Chapter 203, O.S.L. 1993 (57 O.S. Supp. 1995, Section 563.2), is amended to read as follows:

Section 563.2 A. A private prison contractor may contract with the federal government or another state to provide for housing, care and control of minimum or medium security level inmates, as provided by subsection H of this section, who are in the custody of the United States or another state, who do not have histories of escape, and who are sentenced to terms of incarceration for conviction of a felony, other than a felony that would be a capital offense if committed in this state or a sex-related offense, or who are sentenced to federal or state facilities for conviction of a

misdemeanor, other than a sex-related offense, within a facility owned or operated by the private prison contractor. Provided, incarceration for misdemeanors shall be allowed only pursuant to subsection D of this section. Such private prison contractor may perform other functions related to said responsibilities.

B. Any offense which would be a crime if committed within a state correctional institution of this state shall be a crime if committed in a facility owned or operated by a private prison contractor.

C. A private prison contractor shall not employ any personnel convicted of a felony; provided, a private prison contractor may employ personnel convicted of drug-related felonies who have been rehabilitated for programs for drug or other substance abuse rehabilitation for inmates of the facility.

Any personnel of a facility owned or operated by a private prison contractor shall be authorized to carry and use firearms only in the manner provided in this subsection and only after completing training approved or provided by the Department of Corrections. Such personnel shall only be authorized to use firearms for the following purposes:

1. To prevent escape from the facility or from custody while being transported to or from the facility. As used in this paragraph, "to prevent escape from the facility" shall mean to prevent an incarcerated individual from crossing the secure perimeter of the facility; or

2. To prevent an act which would cause death or serious bodily injury to any person.

The Department of Corrections is authorized to provide training to personnel of the private prison contractor, pursuant to contract. The Department of Corrections shall charge a reasonable fee for the training, not to exceed the cost of such training. The provisions of this subsection shall not be construed to confer peace officer

status upon any employee of the private prison contractor or to authorize the use of firearms, except as provided in this subsection. If an inmate escapes from the facility, personnel from the facility immediately shall inform the Department of Public Safety, the county sheriff and, if the facility is located within the boundaries of a municipality, the police department of the municipality.

D. A private prison contractor housing federal inmates or inmates of another state shall not accept:

1. Any inmate who would be incarcerated in the facility for conviction of a misdemeanor, unless such incarceration in the facility is consistent with American Correctional Association requirements relating to the incarceration of inmates convicted of more serious offenses; or

2. Any maximum security level inmate.

E. If an inmate is to be released from incarceration, is released by court order, is to be placed on probation, is paroled, or if the federal government or sending state requests transfer or the return of the inmate, the private prison contractor immediately shall transfer or return the inmate to that state or in the case of federal prisons to the closest federal prison.

F. A private prison contractor housing federal inmates from jurisdictions other than Oklahoma, or inmates of another state shall not discharge any such inmate from custody nor allow any such inmate to leave the premises of the facility, except to comply with an order to appear in a court of competent jurisdiction, to receive medical care not available at the facility, to work as provided in subsection G of this section, or to comply with the provisions of subsection E of this section.

G. A private prison contractor may allow federal inmates who are placed in "out" custody or "community" custody status to be

employed in public works projects provided all of the following conditions are satisfied:

1. The public works project must be in and for the county where the private prison is located or a county adjacent to the county where the private prison is located, or in and for a municipality in the county where the private prison is located or an adjacent county;

2. The private prison contractor has developed security procedures which will ensure the safety of the public and the Department of Corrections has approved such procedures;

3. The public works project has been authorized by Department of Corrections and the county or municipal authorities where the public works project is located;

4. The private prison contractor has procured and has in force and effect a policy of liability insurance which will provide coverage in an amount determined by the Department of Corrections for any loss resulting from the acts or omissions of inmates participating in said project or employees of the private prison contractor and for any injuries occurring to said inmates or employees; and

5. The use of such inmates will be in strict compliance with the provisions of Section 4002 of Title 18 of the United States Code and any other applicable provisions of federal law.

H. A private prison contractor housing federal inmates or inmates of another state shall be responsible for the reimbursement of all reasonable costs and expenses incurred by this state or a political subdivision of this state for legal actions brought in this state by or on behalf of any federal inmate or inmate of another state while incarcerated in the facility, including court costs, sheriff's mileage fees, witness fees, district attorney expenses, expenses of the office of Attorney General, indigent or public defender fees and costs, judicial expenses, court reporter

expenses and any other costs, fees, or expenses associated with the proceedings or actions.

I. As used in this section, unless federal custody status is specified, security level restrictions shall refer to the security levels applicable to inmates in institutions within the Department of Corrections, as determined by policy of the Department of Corrections, unless the Department of Corrections approves more restrictive levels of security as prescribed by the private prison contractor. Private prison contractors housing federal inmates or inmates of another state shall be bound by such security level classifications.

J. A private prison contractor shall not house inmates from this state with federal inmates or inmates from another state, unless segregated or otherwise housed in such a manner as to satisfy the Director of the Department of Corrections.

K. The State of Oklahoma shall not assume jurisdiction or custody of any federal inmate or inmate from another state housed in a facility owned or operated by a private prison contractor. Such inmates from another state shall at all times be subject to the jurisdiction of that state and federal inmates shall at all times be subject to federal jurisdiction. This state shall not be liable for loss resulting from the acts of said inmates nor shall this state be liable for any injuries to said inmates.

SECTION 2. This act shall become effective November 1, 1996.

Passed the House of Representatives the 12th day of March, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate