

SHORT TITLE: Prisons; creating the truth in sentencing provision; requiring certain percentage of sentence be served for certain offender; authorizing the Department of Corrections to contract for certain space; creating the community corrections provision; limiting authority of the Department of Corrections for certain contracts; codification; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 646

By: Hobson

AS INTRODUCED

An Act relating to prisons; creating the truth in sentencing provision; prohibiting parole consideration except under certain circumstance; requiring certain percentage of sentence be served for certain offenders; construing calculation of mandatory sentence term; specifying considerations for certain calculation; providing for suspended sentences and revocation of suspended sentences; authorizing the Department of Corrections to contract for certain space; requiring competitive bid; requiring a design build contract; providing for approval, oversight, monitoring and supervision; creating the community correction provision; establishing a continuum of intermediate sanctions; requiring participating counties to perform; amending 57 O.S. 1991, Section 561, as last amended by Section 1, Chapter 169, O.S.L. 1996 (57 O.S. Supp. 1996, Section 561), which relates to authority to contract for services; limiting authority of the Department of Corrections for certain contracts; removing certain authority for long-term contract renewal; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. This section shall be known as the truth in sentencing provision.

B. Notwithstanding any other provision of law, the Pardon and Parole Board shall not review any inmate for parole consideration, as provided in Section 332.7 of Title 57 of the Oklahoma Statutes, when the inmate has been sentenced to a term of incarceration in the custody of the Department of Corrections for a violent felony offense. Inmates sentenced to incarceration in the custody of the Department of Corrections for a violent felony offense may only be reviewed by the Pardon and Parole Board for parole consideration after the completion of at least _____ percent (%) of the sentence imposed. For purposes of calculating the mandatory term of the sentence to be served in a prison facility, the following shall apply:

1. If the offense is ;

2. When two or more offenses have been ordered to be served concurrently;

3. When the offense was committed before the effective date of this act ; and

4. When the term of incarceration includes a nonviolent offense and an offense

C. Persons convicted of a violent felony offense for which a term of incarceration is imposed by the court, and which all or part of such term of incarceration is suspended pursuant to the authority of Section 991a of Title 22 of the Oklahoma Statutes, shall, for purposes of the truth in sentencing provision, be required to

D. When the offense was committed and a suspended sentence was imposed prior to the effective date of this act, and the suspended sentence is subsequently revoked after the effective date of this act, and the original offense was a violent offense, the offender shall

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections is authorized to contract for the housing of not more than _____ additional inmates in fiscal years 1998 through 2000. The contracts authorized by this section shall only be awarded to private contractors whose facilities are designed and built according to Department specification and standards as specified in a request for bids. The Department shall follow a comprehensive competitive bid process provided by law in awarding contracts authorized by this section. All contracts authorized by this section shall have approval of the Legislative and Executive Bond Oversight Commissions, and the Department shall monitor and supervise any construction projects.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 990 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. This section shall be known as the community corrections provision.

B. The continuum of intermediate sanctions for the sentencing court to use as alternatives to incarceration for nonviolent offenders are:

1. Restitution ;
2. Treatment ;
3. Night and weekend jail;
- C. Every county participating shall

SECTION 4. AMENDATORY 57 O.S. 1991, Section 561, as last amended by Section 1, Chapter 169, O.S.L. 1996 (57 O.S. Supp. 1996, Section 561), is amended to read as follows:

Section 561. ~~A.~~ The Department of Corrections is ~~hereby~~ authorized, subject to funds available, to provide for temporary services of incarceration, supervision, and residential treatment for inmates in its custody or under its supervision at facilities other than those operated by the Department of Corrections. Services offered pursuant to the provisions of this section for persons under the custody or supervision of the Department ~~are to~~ may include, but shall not be limited to, housing, alcoholism or drug treatment, mental health services, nursing home care, or halfway house placement. Such services ~~must~~ shall meet standards prescribed and established by the Board of Corrections ~~for~~ ~~implementing such a program,~~ including but not limited to standards concerning internal and perimeter security, discipline of inmates, educational and vocational training programs, employment of inmates, and proper food, clothing, housing, and medical care. Such services ~~must~~ shall be contracted for in accordance with Section 85.7 of Title 74 of the Oklahoma Statutes. ~~Such services, if provided by private prison contractors, shall be contracted for as provided in subsections C through J of this section.~~ Any contract entered pursuant to the provisions of this section shall be for a period of one (1) year and may be renewed for additional one-year periods.

B. The Department of Corrections is hereby authorized to provide for the operation of correctional institutions of the Department by private prison contractors. Such operation shall meet standards prescribed by the Board of Corrections, including but not limited to, standards concerning internal and perimeter security, discipline of inmates, educational and vocational training programs, and proper food, clothing, housing, and medical care. Such services

shall be contracted for in accordance with the provisions of subsections C through J of this section.

C. A comprehensive file for all private prison contractors interested in and capable of operating an institution within the Department or providing for the housing, care, and control of inmates in a facility owned and operated by the contractor shall be maintained by the Department. These files shall include a completed application form, a resume of the contractor's staff and capability, a completed performance evaluation form for past projects on which the contractor has provided private prison services, a list of past contracts with this state, and a list of contracts to provide similar services to other states or to the United States.

The file shall include the mailing address of each private prison contractor.

Any person or firm wishing to be a private prison contractor may request at any time to be included in the comprehensive file, and shall be provided necessary forms within twenty (20) days of the request and the Department shall add such contractor to the list within twenty (20) days of receipt of a properly completed application.

The Department may solicit evaluation of work done by private prison contractors from members of the private sector, which evaluation shall be part of the comprehensive file.

D. If the Department intends to secure the services of a private prison contractor, all persons and firms included in the file shall be notified through the mail of such intent. Such notification shall contain the following information:

1. Description and scope of the project or projects;
2. Estimated time schedule for project;
3. Last date for submitting notice of interest in performing services to Director; and
4. Other pertinent data.

Private prison contractors desiring consideration shall meet the requirements of this section and to be considered shall submit a letter expressing interest in the project to the Department within thirty (30) days of the postmark date of the letter of notification mailed by the Department. Contractors shall file an updated application form at the request of the Department.

E. The Department shall define the scope of a proposed project, determine the various project components, phases and timetables, and prepare detailed project descriptions to guide prospective contractors. Before the Department awards a contract to a private prison contractor, the plans shall be approved by the Board.

F. The Department shall review the files of the private prison contractors desiring consideration for the project, and shall select no less than three and no more than five contractors for more detailed consideration. In the event interviews for more than one contract are being considered at the same time, the number of contractors selected for more detailed consideration should be at least twice the number of contracts contemplated. This initial screening should consider the requirements of the project, as well as the following factors to be determined from the comprehensive file, and replies to inquiries to former clients:

1. Specialized experience in the type of work contemplated;
2. Capacity of the contractor to accomplish the work in the required time; and
3. Past performance, from the performance evaluation form.

G. A full report of the evaluation procedures and recommendations of the Department shall be prepared by the Department and submitted to the Board for the independent review of the entire process.

H. The Department shall select the contractor whose qualifications and project proposal most substantially meet the criteria of the project description. The Department shall negotiate

the contract with the selected contractor, which contract shall include a fair and reasonable fee. The negotiated scope and fee shall be reported to the Board for the approval of the award of the contract. The contract shall be sent to the Department of Central Services for approval or disapproval. If the Department of Central Services disapproves the contract or the Department and the selected contractor cannot reach an agreement, the Department may either renegotiate with the selected contractor or begin negotiations with the next-choice contractor. Should the Department be unable to negotiate a satisfactory contract with any of the three selected contractors, the Department shall select additional contractors in order of their competency and qualifications and shall continue negotiations in accordance with the provisions of this section until an agreement is reached.

I. Should there be an inadequate expression of interest in the project, the Director and the Board shall confer to add additional private prison contractors for consideration which are known to be appropriate for the project.

J. The Department of Central Services shall render assistance to the Department of Corrections in implementing the contracting procedures provided for in this section. The Department of Central Services may have a representative at any meeting involving negotiations of a contract between the Department and a private prison contractor.

K. The Director of Central Services is authorized to lease real property and improvements thereon to a private prison contractor in conjunction with a contract for private management of a state correctional institution located or to be built on the property. Said lease may be entered into for one (1) year periods, renewable at the sole option of the State of Oklahoma, ~~but not to exceed a cumulative period of fifty (50) years.~~

L. Contracts awarded to private prison contractors pursuant to the provisions of this section shall be entered into for a period specified in each contract, subject to availability of funds annually appropriated by the Legislature for that purpose. No contract awarded pursuant to this section shall provide for the encumbrance of funds beyond the amount available for a fiscal year.

M. No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the Board of Corrections:

1. That the contractor possesses the necessary qualifications and experience to provide the services specified in the contract;

2. That the contractor can provide the necessary qualified personnel to implement the terms of the contract;

3. That the financial condition of the contractor is such that the terms of the contract can be fulfilled;

4. That the contractor has the ability to comply with applicable court orders and corrections standards; and

5. That, in the case of a contractor who will be providing the services in a nondepartmental facility operated by said contractor, the contractor shall be able to meet accreditation standards and receive accreditation, as required by the terms of the contract pursuant to subsection R of this section.

N. No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the Board that the contractor can obtain insurance or provide self-insurance to:

1. Indemnify the state against possible lawsuits arising from the operation of prison facilities by the contractor; and

2. Compensate the state for any property damage or expenses incurred due to the operation of prison facilities.

O. A private prison contractor shall not be bound by state laws or other legislative enactments governing the appointment,

qualifications, duties, salaries, or benefits of wardens, superintendents, or other correctional employees, except that any personnel authorized to carry and use firearms shall comply with the certification standards required by the provisions of Section 3311 of Title 70 of the Oklahoma Statutes and be authorized to use firearms only to prevent a felony, to prevent escape from custody, or to prevent an act which would cause death or serious bodily injury to the personnel or to another person.

P. Any offense which would be a crime if committed within a state correctional institution also shall be a crime if committed in an institution or facility operated by a private prison contractor.

Q. The Director or his designee shall monitor the performance of the contractor.

R. Any contract between the Department and a private prison contractor, whereby the contractor provides for the housing, care, and control of inmates in a nondepartmental facility operated by the contractor, shall contain, in addition to other provisions, terms and conditions:

1. Requiring the contractor to provide said services in a facility which meets accreditation standards established by the American Corrections Association;

2. Requiring the contractor to receive accreditation for said facility from the American Corrections Association, within three (3) years of commencement of operations of the facility;

3. Requiring the contractor to obtain written authorization from the governing board of any municipality in which the facility is to be located, or if the facility is not to be located within a municipality, written authorization from the board of county commissioners of the county in which the facility is to be located; and

4. Granting the Department the option at the beginning of each fiscal year to purchase or lease, at a predetermined price, any such facility.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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