

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1043

By: Beutler

COMMITTEE SUBSTITUTE

An Act relating to prisons and reformatories; amending 57 O.S. 1991, Section 563.2, as last amended by Section 1, Chapter 149, O.S.L. 1998 (57 O.S. Supp. 1998, Section 563.2), which relates to private prison contractors, and 21 O.S. 1991, Section 650.2, as last amended by Section 4, Chapter 333, O.S.L. 1997 (21 O.S. Supp. 1998, Section 650.2), which relates to aggravated assault and battery upon certain persons; providing that nonaggravated assault and battery against certain employees shall be a felony; 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 1, Chapter 149, O.S.L. 1998 (57 O.S. Supp. 1998, 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 or riot, 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. Any assault and battery committed against an employee of a facility owned or operated by a private prison contractor shall be a felony punishable as provided in Section 650.2 of Title 21 of the Oklahoma Statutes.

C. A private prison contractor shall not employ any personnel convicted of a felony if the person has been incarcerated in the private prison facility for which an application for employment is being considered; 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, except any person convicted of a felony offense, shall be authorized to carry and use firearms while in the performance of their official duties 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, or in the event of any riot or other serious disturbance, 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. If fifty percent (50%) or more of the population of the facility are inmates from this state, the personnel from the facility immediately shall inform the Department of Corrections if there is any riot or other serious disturbance, whether or not involving any inmates from this state, or if an inmate from this state escapes. The Department of Corrections is directed to respond on behalf of inmates of this state. Any emergency response provided by any state or local law enforcement agency shall be at the sole expense of the private prison contractor/operator. Each responding agency shall submit a written invoice detailing costs incurred which shall be paid within thirty (30) days of receipt by the private prison contractor/operator.

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 or discharged from incarceration, is released or discharged by any 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 the sending state which has legal authority over the sentence or, in the case of federal inmates, to the closest federal prison or to the federal authority of the state in which federal custody over the inmate originated.

F. A private prison contractor housing federal inmates from jurisdictions other than Oklahoma, or inmates sentenced pursuant to the legal authority of another state, shall not 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 return or be transferred to another state as provided by the provisions of subsection E of this section.

G. A private prison contractor may allow minimum security inmate labor to be used 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 federal inmates for public works projects 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. AMENDATORY 21 O.S. 1991, Section 650.2, as last amended by Section 4, Chapter 333, O.S.L. 1997 (21 O.S. Supp. 1998, Section 650.2), is amended to read as follows:

Section 650.2 A. Every person in the custody of the Oklahoma Department of Corrections who, without justifiable or excusable cause, knowingly commits any ~~aggravated~~ assault and battery upon the person of a Department of Corrections employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

B. Every person incarcerated in an institution operated by a private prison contractor, either pursuant to Section 561 ~~or~~ 563.1 or 563.2 of Title 57 of the Oklahoma Statutes, who, without justifiable or excusable cause, knowingly commits any ~~aggravated~~ assault and battery upon the person of an employee of the contractor while said employee is in the performance of duties shall, upon conviction thereof, be guilty of a felony.

C. Every person in the custody of the Department of Human Services who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Human Services employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

D. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an Office of Juvenile Affairs employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

E. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any battery or assault and battery resulting in serious bodily injury to any employee of the Office of Juvenile Affairs or employee of any residential facility while said employee is in the performance of duties of employment shall, upon conviction thereof, be guilty of a felony. The fine for a violation of this subsection shall not be less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), which may be imposed whether or not a period of incarceration is imposed.

SECTION 3. This act shall become effective November 1, 1999.

47-1-6293 SD 6/11/15