

1 THE STATE SENATE  
2 Monday, February 28, 2000

3 Committee Substitute for  
4 Senate Bill No. 1437

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1437 - By: WILKERSON of the  
6 Senate and PLUNK of the House.

7 An Act relating to prisons; amending 57 O.S. 1991, Section  
8 563.2, as last amended by Section 2, Chapter 394, O.S.L.  
9 1999 (57 O.S. Supp. 1999, Section 563.2), which relates to  
10 private prisons; changing authority for firearms training  
11 for private prison employees; allowing the Council on Law  
12 Enforcement Education and Training to approve certain  
13 training; providing for reasonable fee for evaluation of  
14 certain training; providing an effective date; and declaring  
15 an emergency.

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

17 SECTION 1. AMENDATORY 57 O.S. 1991, Section 563.2, as  
18 last amended by Section 2, Chapter 394, O.S.L. 1999 (57 O.S. Supp.  
19 1999, Section 563.2), is amended to read as follows:

20 Section 563.2 A. A private prison contractor may contract with  
21 the federal government or another state to provide for housing, care  
22 and control of minimum or medium security level inmates, as provided  
23 ~~by subsection H of~~ in this section, who are in the custody of the  
24 United States or another state, who do not have histories of escape  
25 from medium or maximum security level correctional facilities for  
26 adults, who do not have histories of rioting, and who are sentenced  
27 to terms of incarceration for conviction of a felony, other than a  
28 felony that would be a capital offense if committed in this state or

1 a sex-related offense, or who are sentenced to federal or state  
2 facilities for conviction of a misdemeanor, other than a sex-related  
3 offense, within a facility owned or operated by the private prison  
4 contractor. Provided, incarceration for misdemeanors shall be  
5 allowed only pursuant to subsection D of this section. Such private  
6 prison contractor may perform other functions related to ~~said~~ such  
7 responsibilities.

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

12 C. A private prison contractor shall not employ any personnel  
13 convicted of a felony if the person has been incarcerated in the  
14 private prison facility for which an application for employment is  
15 being considered; provided, a private prison contractor may employ  
16 personnel convicted of drug-related felonies who have been  
17 rehabilitated for programs for drug or other substance abuse  
18 rehabilitation for inmates of the facility.

19 Any personnel of a facility owned or operated by a private  
20 prison contractor, except any person convicted of a felony offense,  
21 shall be authorized to carry and use firearms while in the  
22 performance of their official duties only in the manner provided in  
23 this subsection and only after completing training approved ~~or~~

1 ~~provided by the Department of Corrections. Such~~ Council on Law  
2 Enforcement Education and Training. The Council on Law Enforcement  
3 Education and Training may charge a reasonable fee for its cost of  
4 evaluating firearms training for private prison personnel. Private  
5 prison personnel shall only be authorized to use firearms for the  
6 following purposes:

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

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

14 The Department of Corrections is authorized to provide training  
15 to personnel of the private prison contractor, pursuant to contract.  
16 The Department of Corrections shall charge a reasonable fee for the  
17 training, not to exceed the cost of such training. The provisions  
18 of this subsection shall not be construed to confer peace officer  
19 status upon any employee of the private prison contractor or to  
20 authorize the use of firearms, except as provided in this  
21 subsection. If an inmate escapes from the facility, or in the event  
22 of any riot or other serious disturbance, personnel from the  
23 facility immediately shall inform the Department of Public Safety,

1 the county sheriff and, if the facility is located within the  
2 boundaries of a municipality, the police department of the  
3 municipality. If fifty percent (50%) or more of the population of  
4 the facility are inmates from this state, the personnel from the  
5 facility immediately shall inform the Department of Corrections if  
6 there is any riot or other serious disturbance, whether or not  
7 involving any inmates from this state, or if an inmate from this  
8 state escapes. The Department of Corrections is directed to respond  
9 on behalf of inmates of this state. Any emergency response provided  
10 by any state or local law enforcement agency shall be at the sole  
11 expense of the private prison contractor/operator. Each responding  
12 agency shall submit a written invoice detailing costs incurred which  
13 shall be paid within thirty (30) days of receipt by the private  
14 prison contractor/operator.

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

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

22 2. Any maximum security level inmate.

1           E. If an inmate is to be released or discharged from  
2 incarceration, is released or discharged by any court order, is to  
3 be placed on probation, is paroled, or if the federal government or  
4 sending state requests transfer or the return of the inmate, the  
5 private prison contractor immediately shall transfer or return the  
6 inmate to the sending state which has legal authority over the  
7 sentence or, in the case of federal inmates, to the closest federal  
8 prison or to the federal authority of the state in which federal  
9 custody over the inmate originated.

10          F. A private prison contractor housing federal inmates from  
11 jurisdictions other than Oklahoma, or inmates sentenced pursuant to  
12 the legal authority of another state, shall not allow any such  
13 inmate to leave the premises of the facility, except to comply with  
14 an order to appear in a court of competent jurisdiction, to receive  
15 medical care not available at the facility, to work as provided in  
16 subsection G of this section, or to return or be transferred to  
17 another state as provided by the provisions of subsection E of this  
18 section.

19          G. A private prison contractor may allow minimum security  
20 inmate labor to be used in public works projects provided all of the  
21 following conditions are satisfied:

22           1. The public works project must be in and for the county where  
23 the private prison is located or a county adjacent to the county

1 where the private prison is located, or in and for a municipality in  
2 the county where the private prison is located or an adjacent  
3 county;

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

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

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

17 5. The use of federal inmates for public works projects will be  
18 in strict compliance with the provisions of Section 4002 of Title 18  
19 of the United States Code and any other applicable provisions of  
20 federal law.

21 H. A private prison contractor housing federal inmates or  
22 inmates of another state shall be responsible for the reimbursement  
23 of all reasonable costs and expenses incurred by this state or a

1 political subdivision of this state for legal actions brought in  
2 this state by or on behalf of any federal inmate or inmate of  
3 another state while incarcerated in the facility, including court  
4 costs, ~~sheriff's~~ sheriff mileage fees, witness fees, district  
5 attorney expenses, expenses of the office of Attorney General,  
6 indigent or public defender fees and costs, judicial expenses, court  
7 reporter expenses and any other costs, fees, or expenses associated  
8 with the proceedings or actions.

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

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

22 K. The State of Oklahoma shall not assume jurisdiction or  
23 custody of any federal inmate or inmate from another state housed in

1 a facility owned or operated by a private prison contractor. Such  
2 inmates from another state shall at all times be subject to the  
3 jurisdiction of that state and federal inmates shall at all times be  
4 subject to federal jurisdiction. This state shall not be liable for  
5 loss resulting from the acts of ~~said~~ such inmates nor shall this  
6 state be liable for any injuries to ~~said~~ the inmates.

7 SECTION 2. This act shall become effective July 1, 2000.

8 SECTION 3. It being immediately necessary for the preservation  
9 of the public peace, health and safety, an emergency is hereby  
10 declared to exist, by reason whereof this act shall take effect and  
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-00 - DO  
13 PASS, As Amended and Coauthored.