ENGROSSED SENATE
BILL NO. 805

By: Leftwich and Rabon of the Senate

and

Roan of the House

[corrections – private prison contractors – housing federal inmates – effective date – emergency]

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 563.3, is amended to read as follows:

Section 563.3 A. A private prison contractor which does not have a contract with the Department of Corrections, but which houses federal inmates or inmates of another state, within two (2) months of commencing operations and thereafter as required by the Department of Corrections, shall:

1. Obtain from the Department of Corrections approval of the internal and perimeter security of the facility of the private prison contractor. Such approval shall be given only if the Director of the Department of Corrections determines that the security is adequate to protect the public;

2. Show, to the satisfaction of the Department of Corrections, that:

a. adequate food, housing and medical care shall be available for inmates, ~~that~~

b. the facility will have the necessary qualified personnel to operate the facility, ~~that~~

c. the financial condition of the private prison contractor is such that the facility can be operated adequately,

d. procedures have been developed for assumption of operations by the Department in the event of the contractor's bankruptcy or inability to perform duties, and ~~that~~

e. the facility has the ability to comply with applicable court orders and American Correctional Association standards;

3. Furnish to the Department of Corrections satisfactory proof that the private prison contractor has obtained insurance or is self-insured, in such a manner and in such an amount as the Director of the Department of Corrections, after consulting with the Risk Management Administration, may deem necessary and adequate to reimburse this state or a political subdivision of this state, for expenses arising from any incident which occurs at said prison or which requires intervention by this state or a political subdivision of this state. Such insurance, in addition, shall be in an amount sufficient to indemnify this state and its officers and employees, for any liability or other loss, including property damage, judgments, costs, ~~attorneys~~ attorney fees or other expenses arising from the operation of the facility, and such facility shall in any event and regardless of the amount of insurance available indemnify and hold harmless this state and its officers and employees, for any and all acts of prison inmates, and/or all officers, employees and stockholders of such private prison contractor for any liability arising out of acts of said inmates, officers, employees and stockholders of such private prison contractor in relation to the operation of the facility. The insurance required by this paragraph shall not provide coverage for more than one facility. If the private prison contractor owns or operates more than one facility, separate insurance coverage shall be obtained or provided for each facility;

4. 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

5. A felony record search of fingerprints of the employee or prospective employee of the private prison contractor shall be required. The search shall be based on fingerprints and shall be conducted either by the Federal Bureau of Investigation or the Oklahoma State Bureau of Investigation. If the search is conducted by the Oklahoma State Bureau of Investigation, the Bureau shall require that said person pay a search fee not to exceed Fifty Dollars ($50.00) or the cost of the search, whichever is the lesser amount. The fees shall be deposited in the OSBI Revolving Fund. The private prison contractor is hereby authorized to reimburse employees for the cost of the search. The Oklahoma State Bureau of Investigation may contact the Federal Bureau of Investigation as regards the information requested, to obtain any felony convictions of the person involved. The record required by this paragraph shall include the name of the person, whether or not said person has been convicted of any felony offense, a list of any felony convictions, and the dates of such convictions. The search records of each employee shall be maintained by the contractor for as long as the employee works for the contractor. The records shall be subject to inspection by the Department of Corrections.

B. A private prison contractor which does not have a contract with the Department of Corrections, but which houses federal inmates or inmates of another state shall attain accreditation by the American Correctional Association within three (3) years of commencing operation of the facility and thereafter shall maintain such accreditation.

C. The Department of Corrections shall monitor the performance of the private prison contractor and the continued compliance of the private prison contractor with the provisions of subsections A and B of this section. If at any time after commencing operations, a private prison contractor, that is subject to the provisions of subsection A of this section, fails to comply with any of said provisions, the Director of the Department of Corrections may order the facility to take corrective action pursuant to the Department monitoring plan. If corrective action is not pursued with due diligence, the Department of Corrections shall order the facility to cease operations. If a private prison contractor fails to attain or maintain the accreditation required by subsection B of this section, the Director of the Department of Corrections shall order the facility to cease operations. ~~This~~ Any order to cease operations may be enforced by injunction issued by a district court of this state.

D. The Department of Corrections may charge the private prison contractor a reasonable fee for any services provided by the Department including, but not limited to, costs of monitoring compliance with the provisions of paragraphs 1 and 2 of subsection A of this section. The fee shall not exceed the actual cost incurred in performing the monitoring.

E. The Department of Corrections shall promulgate and adopt rules for the implementation of this section.

F. All fees collected by the Department of Corrections pursuant to this section shall be deposited with the State Treasurer to the credit of the Department of Corrections Revolving Fund.

SECTION 2. This act shall become effective July 1, 2005.

SECTION 3. 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.

Passed the Senate the 8th day of March, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

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Presiding Officer of the House
of Representatives