

3 Senate Bill No. 805  
4 As Amended

5 SENATE BILL NO. 805 - By: LEFTWICH of the Senate and ROAN of the  
6 House.

7 [ corrections - private prison contractors - housing federal  
8 inmates - effective date -  
9 emergency ]

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

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

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

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

23 2. Show, to the satisfaction of the Department of Corrections,  
24 that\_

- 1           a.   adequate food, housing and medical care shall be  
2                                   available for inmates, ~~that~~
- 3           b.   the facility will have the necessary qualified  
4                                   personnel to operate the facility, ~~that~~
- 5           c.   the financial condition of the private prison  
6                                   contractor is such that the facility can be operated  
7                                   adequately,
- 8           d.   procedures have been developed for assumption of  
9                                   operations by the Department in the event of the  
10                                  contractor's bankruptcy or inability to perform  
11                                  duties, and ~~that~~
- 12          e.   the facility has the ability to comply with applicable  
13                                  court orders and American Correctional Association  
14                                  standards;

15          3.   Furnish to the Department of Corrections satisfactory proof  
16          that the private prison contractor has obtained insurance or is  
17          self-insured, in such a manner and in such an amount as the Director  
18          of the Department of Corrections, after consulting with the Risk  
19          Management Administration, may deem necessary and adequate to  
20          reimburse this state or a political subdivision of this state, for  
21          expenses arising from any incident which occurs at said prison or  
22          which requires intervention by this state or a political subdivision  
23          of this state.  Such insurance, in addition, shall be in an amount

1 sufficient to indemnify this state and its officers and employees,  
2 for any liability or other loss, including property damage,  
3 judgments, costs, ~~attorneys~~ attorney fees or other expenses arising  
4 from the operation of the facility, and such facility shall in any  
5 event and regardless of the amount of insurance available indemnify  
6 and hold harmless this state and its officers and employees, for any  
7 and all acts of prison inmates, and/or all officers, employees and  
8 stockholders of such private prison contractor for any liability  
9 arising out of acts of said inmates, officers, employees and  
10 stockholders of such private prison contractor in relation to the  
11 operation of the facility. The insurance required by this paragraph  
12 shall not provide coverage for more than one facility. If the  
13 private prison contractor owns or operates more than one facility,  
14 separate insurance coverage shall be obtained or provided for each  
15 facility;

16 4. Obtain written authorization from the governing board of any  
17 municipality in which the facility is to be located, or if the  
18 facility is not to be located within a municipality, written  
19 authorization from the board of county commissioners of the county  
20 in which the facility is to be located; and

21 5. A felony record search of fingerprints of the employee or  
22 prospective employee of the private prison contractor shall be  
23 required. The search shall be based on fingerprints and shall be

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

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

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

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

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

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

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO  
12 PASS, As Amended and Coauthored.