

ENROLLED SENATE
BILL NO. 2066

By: Justice of the Senate

and

Richardson of the House

An Act relating to corrections; amending 57 O.S. 2001, Section 563.3, as last amended by Section 11, Chapter 294, O.S.L. 2006 (57 O.S. Supp. 2007, Section 563.3), which relates to private prison contractors; deleting certain methods for conducting fingerprint search on certain employees; requiring national criminal history records check on private prison employees through the Department of Corrections; prohibiting dissemination of certain information to private entities; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 563.3, as last amended by Section 11, Chapter 294, O.S.L. 2006 (57 O.S. Supp. 2007, 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 all emergency response plans and the internal and perimeter security of the facility of the private prison contractor. All emergency plans for the private prison facility shall be approved by the Department of Corrections annually on July 1 and within thirty (30) days of any

subsequent change or modification to any plan. Such approval shall be given only if the Director of the Department of Corrections determines that the security and emergency response plan are adequate to protect the public;

2. Show, to the satisfaction of the Department of Corrections, that adequate food, housing and medical care shall be available for inmates, that the facility will have the necessary qualified personnel to operate the facility, that the financial condition of the private prison contractor is such that the facility can be operated adequately, and that 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, 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. ~~Require and obtain a felony record search of fingerprints of~~ Ensure every employee or prospective employee of the private prison contractor has submitted through the Department of Corrections a national criminal history records check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes. ~~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 the person to 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 from national criminal history records checks shall be maintained by the contractor for as long as the employee works for the contractor Department of Corrections. ~~The records shall be subject to inspection by the Department of Corrections shall not disseminate any national criminal history records information to a private entity.~~~~

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 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 take corrective action pursuant to the Department of Corrections monitoring plan and, if corrective action is not pursued with due diligence, shall order the facility to cease operations. This order 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 staff to include, but not limited to, the costs of monitoring compliance with the provisions of paragraphs 1 and 2 of subsection A of this section. The fee shall not exceed the 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. 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 5th day of May, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2008.

Presiding Officer of the House
of Representatives