

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1781 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Sue Tibbs

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1781

By: Tibbs

7 PROPOSED COMMITTEE SUBSTITUTE

8
9 An Act relating to prisons and reformatories;
10 amending 57 O.S. 2001, Section 563.2, as last amended
11 by Section 1, Chapter 476, O.S.L. 2005 (57 O.S. Supp.
12 2008, Section 563.2), which relates to the Oklahoma
13 Corrections Act of 1967; modifying inmate housing
14 contract requirements for private prison contractors;
15 authorizing private prison contractors to house
16 maximum security level inmates; deleting certain
17 inmate housing restrictions; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 57 O.S. 2001, Section 563.2, as
21 last amended by Section 1, Chapter 476, O.S.L. 2005 (57 O.S. Supp.
22 2008, Section 563.2), is amended to read as follows:

23 Section 563.2 A. ~~Except as provided for in subsection B of~~
24 ~~this section,~~ 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 or maximum security level inmates, as
provided in this section, who are in the custody of the United

1 States or another state, ~~who do not have histories of escape from~~
2 ~~medium or maximum security level correctional facilities for adults,~~
3 ~~who do not have histories of rioting,~~ and who are sentenced to terms
4 of incarceration for conviction of a felony, other than a ~~felony~~
5 ~~that would be a capital offense if committed in this state or a sex-~~
6 ~~related offense~~ sentence of death, or who are sentenced to federal
7 or state facilities for conviction of a misdemeanor, ~~other than a~~
8 ~~sex-related offense,~~ or who are under arrest or detained for federal
9 felony or misdemeanor violations, or detained for a violation of
10 immigration laws, within a facility owned or operated by the private
11 prison contractor. ~~Provided, incarceration for misdemeanors shall~~
12 ~~be allowed only pursuant to subsection E of this section.~~ Such
13 private prison contractor may perform other functions related to
14 such responsibilities.

15 B. A private prison contractor ~~operating a facility on January~~
16 ~~1, 2004, at twenty five percent (25%) or less capacity~~ may contract
17 with the federal government or another state to provide for housing,
18 care and control of minimum ~~or~~, medium or maximum security level
19 inmates provided the facility would be allowed to house the same
20 type of inmates if contracting with this state.

21 C. Any offense which would be a crime if committed within a
22 state correctional institution of this state shall be a crime if
23 committed in a facility owned or operated by a private prison
24 contractor.

1 D. A private prison contractor shall not employ any personnel
2 convicted of a felony if the person has been incarcerated in the
3 private prison facility for which an application for employment is
4 being considered; provided, a private prison contractor may employ
5 personnel convicted of drug-related felonies who have been
6 rehabilitated for programs for drug or other substance abuse
7 rehabilitation for inmates of the facility.

8 Any personnel of a facility owned or operated by a private
9 prison contractor, except any person convicted of a felony offense,
10 shall be authorized to carry and use firearms while in the
11 performance of their official duties only in the manner provided in
12 this subsection and only after completing training approved by the
13 Council on Law Enforcement Education and Training. The Council on
14 Law Enforcement Education and Training may charge a reasonable fee
15 for its cost of evaluating firearms training for private prison
16 personnel. Private prison personnel shall only be authorized to use
17 firearms for the following purposes:

18 1. To prevent escape from the facility or from custody while
19 being transported to or from the facility. As used in this
20 paragraph, "to prevent escape from the facility" means to prevent an
21 incarcerated individual from crossing the secure perimeter of the
22 facility; or

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

1 The Department of Corrections is authorized to provide training
2 to personnel of the private prison contractor, pursuant to contract.
3 The Department of Corrections shall charge a reasonable fee for the
4 training, not to exceed the cost of such training. The provisions
5 of this subsection shall not be construed to confer peace officer
6 status upon any employee of the private prison contractor or to
7 authorize the use of firearms, except as provided in this
8 subsection. All private prisons operating in this state shall
9 prepare a written emergency plan and mutual aid agreement between
10 the private prison facility and state and local law enforcement
11 agencies, including the Department of Corrections and the Department
12 of Public Safety. If an inmate escapes from the facility, or in the
13 event of any riot or other serious disturbance, personnel from the
14 facility immediately shall inform the Department of Corrections, the
15 Department of Public Safety, the county sheriff and, if the facility
16 is located within the boundaries of a municipality, the police
17 department of the municipality. The Department of Corrections shall
18 designate facilities operated by the Department to provide support
19 in the event of a riot, escape or other serious emergency.
20 Personnel from the facility shall inform the Department of
21 Corrections, pursuant to Department policy, if there is any
22 incident. The Department of Corrections is directed to respond on
23 behalf of public safety of this state. The private prison
24 contractor shall provide the Department of Corrections access to the

1 facility and secure facility space to establish a command post,
2 including provisions for telephone and fax access. Any emergency
3 response provided by any state or local law enforcement agency shall
4 be at the sole expense of the private prison contractor/operator.
5 Each responding agency shall submit a written invoice detailing
6 costs incurred which shall be paid within thirty (30) days of
7 receipt by the private prison contractor/operator.

8 ~~E. A private prison contractor housing federal inmates or~~
9 ~~inmates of another state shall not accept:~~

10 ~~1. Any inmate who would be incarcerated in the facility for~~
11 ~~conviction of a misdemeanor, unless such incarceration in the~~
12 ~~facility is consistent with American Correctional Association~~
13 ~~requirements relating to the incarceration of inmates convicted of~~
14 ~~more serious offenses; or~~

15 ~~2. Any maximum security level inmate.~~

16 ~~F.~~ If an inmate is to be released or discharged from
17 incarceration, is released or discharged by any court order, is to
18 be placed on probation, is paroled, or if the federal government or
19 sending state requests transfer or the return of the inmate, the
20 private prison contractor immediately shall transfer or return the
21 inmate to the sending state which has legal authority over the
22 sentence or, in the case of federal inmates, to the closest federal
23 prison or to the federal authority of the state in which federal
24 custody over the inmate originated.

1 ~~G.~~ F. A private prison contractor housing federal inmates from
2 jurisdictions other than Oklahoma, or inmates sentenced pursuant to
3 the legal authority of another state, shall not allow any such
4 inmate to leave the premises of the facility, except to comply with
5 an order to appear in a court of competent jurisdiction, to receive
6 medical care not available at the facility, to work as provided in
7 subsection ~~H.~~ G. of this section, or to return or be transferred to
8 another state as provided by the provisions of subsection ~~F.~~ E. of
9 this section.

10 ~~H.~~ G. A private prison contractor may allow minimum security
11 inmate labor to be used in public works projects provided all of the
12 following conditions are satisfied:

13 1. The public works project must be in and for the county where
14 the private prison is located or a county adjacent to the county
15 where the private prison is located, or in and for a municipality in
16 the county where the private prison is located or an adjacent
17 county;

18 2. The private prison contractor has developed security
19 procedures which will ensure the safety of the public and the
20 Department of Corrections has approved such procedures;

21 3. The public works project has been authorized by the
22 Department of Corrections and the county or municipal authorities
23 where the public works project is located;

24

1 4. The private prison contractor has procured and has in force
2 and effect a policy of liability insurance which will provide
3 coverage in an amount determined by the Department of Corrections
4 for any loss resulting from the acts or omissions of inmates
5 participating in such project or employees of the private prison
6 contractor and for any injuries occurring to the inmates or
7 employees; and

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

12 ~~F.~~ H. A private prison contractor housing federal inmates or
13 inmates of another state shall be responsible for the reimbursement
14 of all reasonable costs and expenses incurred by this state or a
15 political subdivision of this state for legal actions brought in
16 this state by or on behalf of any federal inmate or inmate of
17 another state while incarcerated in the facility, including court
18 costs, sheriff mileage fees, witness fees, district attorney
19 expenses, expenses of the office of Attorney General, indigent or
20 public defender fees and costs, judicial expenses, court reporter
21 expenses and any other costs, fees, or expenses associated with the
22 proceedings or actions.

23 ~~F.~~ I. As used in this section, unless federal custody status is
24 specified, security level restrictions shall refer to the security

1 levels applicable to inmates in institutions within the Department
2 of Corrections, as determined by policy of the Department of
3 Corrections, unless the Department of Corrections approves more
4 restrictive levels of security as prescribed by the private prison
5 contractor. Private prison contractors housing federal inmates or
6 inmates of another state shall be bound by such security level
7 classifications.

8 ~~K.~~ J. A private prison contractor shall not house inmates from
9 this state with federal inmates or inmates from another state,
10 unless segregated or otherwise housed in such a manner as to satisfy
11 the Director of the Department of Corrections.

12 ~~L.~~ K. The State of Oklahoma shall not assume jurisdiction or
13 custody of any federal inmate or inmate from another state housed in
14 a facility owned or operated by a private prison contractor. Such
15 inmates from another state shall at all times be subject to the
16 jurisdiction of that state and federal inmates shall at all times be
17 subject to federal jurisdiction. This state shall not be liable for
18 loss resulting from the acts of such inmates nor shall this state be
19 liable for any injuries to the inmates.

20 SECTION 2. This act shall become effective November 1, 2009.

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22 52-1-6868 GRS 02/16/09

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