

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1781

By: Tibbs

6  
7 COMMITTEE SUBSTITUTE

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

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

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

17 Section 563.2 A. ~~Except as provided for in subsection B of this section, a~~ A private prison  
18 contractor may contract with the federal government or another state to provide for housing, care and  
19 control of minimum ~~or~~ medium or maximum security level inmates, as provided in this section, who  
20 are in the custody of the United States or another state, ~~who do not have histories of escape from~~  
21 ~~medium or maximum security level correctional facilities for adults, who do not have histories of~~  
22 ~~rioting~~, and who are sentenced to terms of incarceration for conviction of a felony, other than a ~~felony~~  
23 ~~that would be a capital offense if committed in this state or a sex related offense~~ sentence of death, or  
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1 who are sentenced to federal or state facilities for conviction of a misdemeanor, ~~other than a sex-~~  
2 ~~related offense~~, or who are under arrest or detained for federal felony or misdemeanor violations, or  
3 detained for a violation of immigration laws, within a facility owned or operated by the private prison  
4 contractor. ~~Provided, incarceration for misdemeanors shall be allowed only pursuant to subsection E~~  
5 ~~of this section.~~ Such private prison contractor may perform other functions related to such  
6 responsibilities.

7 B. A private prison contractor ~~operating a facility on January 1, 2004, at twenty five percent~~  
8 ~~(25%) or less capacity~~ may contract with the federal government or another state to provide for  
9 housing, care and control of minimum ~~or~~ medium or maximum security level inmates provided the  
10 facility would be allowed to house the same type of inmates if contracting with this state.

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

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

18 Any personnel of a facility owned or operated by a private prison contractor, except any person  
19 convicted of a felony offense, shall be authorized to carry and use firearms while in the performance of  
20 their official duties only in the manner provided in this subsection and only after completing training  
21 approved by the Council on Law Enforcement Education and Training. The Council on Law  
22 Enforcement Education and Training may charge a reasonable fee for its cost of evaluating firearms  
23  
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1 training for private prison personnel. Private prison personnel shall only be authorized to use firearms  
2 for the following purposes:

3 1. To prevent escape from the facility or from custody while being transported to or from the  
4 facility. As used in this paragraph, “to prevent escape from the facility” means to prevent an  
5 incarcerated individual from crossing the secure perimeter of the facility; or

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

7 The Department of Corrections is authorized to provide training to personnel of the private  
8 prison contractor, pursuant to contract. The Department of Corrections shall charge a reasonable fee  
9 for the training, not to exceed the cost of such training. The provisions of this subsection shall not be  
10 construed to confer peace officer status upon any employee of the private prison contractor or to  
11 authorize the use of firearms, except as provided in this subsection. All private prisons operating in  
12 this state shall prepare a written emergency plan and mutual aid agreement between the private prison  
13 facility and state and local law enforcement agencies, including the Department of Corrections and the  
14 Department of Public Safety. If an inmate escapes from the facility, or in the event of any riot or other  
15 serious disturbance, personnel from the facility immediately shall inform the Department of  
16 Corrections, the Department of Public Safety, the county sheriff and, if the facility is located within the  
17 boundaries of a municipality, the police department of the municipality. The Department of  
18 Corrections shall designate facilities operated by the Department to provide support in the event of a  
19 riot, escape or other serious emergency. Personnel from the facility shall inform the Department of  
20 Corrections, pursuant to Department policy, if there is any incident. The Department of Corrections is  
21 directed to respond on behalf of public safety of this state. The private prison contractor shall provide  
22 the Department of Corrections access to the facility and secure facility space to establish a command  
23 post, including provisions for telephone and fax access. Any emergency response provided by any  
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1 state or local law enforcement agency shall be at the sole expense of the private prison  
2 contractor/operator. Each responding agency shall submit a written invoice detailing costs incurred  
3 which shall be paid within thirty (30) days of receipt by the private prison contractor/operator.

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

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

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

10 ~~F.~~ If an inmate is to be released or discharged from incarceration, is released or discharged by  
11 any court order, is to be placed on probation, is paroled, or if the federal government or sending state  
12 requests transfer or the return of the inmate, the private prison contractor immediately shall transfer or  
13 return the inmate to the sending state which has legal authority over the sentence or, in the case of  
14 federal inmates, to the closest federal prison or to the federal authority of the state in which federal  
15 custody over the inmate originated.

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

22 ~~H.~~ G. A private prison contractor may allow minimum security inmate labor to be used in public  
23 works projects provided all of the following conditions are satisfied:  
24

1           1. The public works project must be in and for the county where the private prison is located or  
2 a county adjacent to the county where the private prison is located, or in and for a municipality in the  
3 county where the private prison is located or an adjacent county;

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

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

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

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

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

22           F. I. As used in this section, unless federal custody status is specified, security level restrictions  
23 shall refer to the security levels applicable to inmates in institutions within the Department of  
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1 Corrections, as determined by policy of the Department of Corrections, unless the Department of  
2 Corrections approves more restrictive levels of security as prescribed by the private prison contractor.  
3 Private prison contractors housing federal inmates or inmates of another state shall be bound by such  
4 security level classifications.

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

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

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

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15 52-1-7203                      GRS                      02/26/09  
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