

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

Committee Substitute for
House Bill No. 1781

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1781 - By: TIBBS of the House and NICHOLS of the Senate.

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

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

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

4 Section 563.2 A. ~~Except as provided for in subsection B of this section, a~~ A private
5 prison contractor may contract with the federal government or another state to provide
6 for housing, care and control of minimum ~~or~~, medium or maximum security level
7 inmates, as provided in this section, who are in the custody of the United States or
8 another state, ~~who do not have histories of escape from medium or maximum security~~
9 ~~level correctional facilities for adults, who do not have histories of rioting,~~ and who are
10 sentenced to terms of incarceration for conviction of a felony, other than a ~~felony that~~

1 ~~would be a capital offense if committed in this state or a sex-related offense~~ sentence of
2 death, or who are sentenced to federal or state facilities for conviction of a misdemeanor,
3 ~~other than a sex-related offense~~, or who are under arrest or detained for federal felony or
4 misdemeanor violations, or detained for a violation of immigration laws, within a facility
5 owned or operated by the private prison contractor. ~~Provided, incarceration for~~
6 ~~misdemeanors shall be allowed only pursuant to subsection E of this section.~~ Such
7 private prison contractor may perform other functions related to such responsibilities.

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

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

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

21 Any personnel of a facility owned or operated by a private prison contractor, except
22 any person convicted of a felony offense, shall be authorized to carry and use firearms

1 while in the performance of their official duties only in the manner provided in this
2 subsection and only after completing training approved by the Council on Law
3 Enforcement Education and Training. The Council on Law Enforcement Education and
4 Training may charge a reasonable fee for its cost of evaluating firearms training for
5 private prison personnel. Private prison personnel shall only be authorized to use
6 firearms for the following purposes:

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

10 or

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

13 The Department of Corrections is authorized to provide training to personnel of the
14 private prison contractor, pursuant to contract. The Department of Corrections shall
15 charge a reasonable fee for the training, not to exceed the cost of such training. The
16 provisions of this subsection shall not be construed to confer peace officer status upon
17 any employee of the private prison contractor or to authorize the use of firearms, except
18 as provided in this subsection. All private prisons operating in this state shall prepare a
19 written emergency plan and mutual aid agreement between the private prison facility
20 and state and local law enforcement agencies, including the Department of Corrections
21 and the Department of Public Safety. If an inmate escapes from the facility, or in the
22 event of any riot or other serious disturbance, personnel from the facility immediately

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~~Strike thru~~ language denotes deletion from present Statutes.

1 shall inform the Department of Corrections, the Department of Public Safety, the county
2 sheriff and, if the facility is located within the boundaries of a municipality, the police
3 department of the municipality. The Department of Corrections shall designate facilities
4 operated by the Department to provide support in the event of a riot, escape or other
5 serious emergency. Personnel from the facility shall inform the Department of
6 Corrections, pursuant to Department policy, if there is any incident. The Department of
7 Corrections is directed to respond on behalf of public safety of this state. The private
8 prison contractor shall provide the Department of Corrections access to the facility and
9 secure facility space to establish a command post, including provisions for telephone and
10 fax access. Any emergency response provided by any state or local law enforcement
11 agency shall be at the sole expense of the private prison contractor/operator. Each
12 responding agency shall submit a written invoice detailing costs incurred which shall be
13 paid within thirty (30) days of receipt by the private prison contractor/operator.

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

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

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

21 F. If an inmate is to be released or discharged from incarceration, is released or
22 discharged by any court order, is to be placed on probation, is paroled, or if the federal

1 government or sending state requests transfer or the return of the inmate, the private
2 prison contractor immediately shall transfer or return the inmate to the sending state
3 which has legal authority over the sentence or, in the case of federal inmates, to the
4 closest federal prison or to the federal authority of the state in which federal custody over
5 the inmate originated.

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

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

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

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

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

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

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

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

19 ~~J. I.~~ I. As used in this section, unless federal custody status is specified, security level
20 restrictions shall refer to the security levels applicable to inmates in institutions within
21 the Department of Corrections, as determined by policy of the Department of
22 Corrections, unless the Department of Corrections approves more restrictive levels of

1 security as prescribed by the private prison contractor. Private prison contractors
2 housing federal inmates or inmates of another state shall be bound by such security level
3 classifications.

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02-26-09 - DO
15 PASS, As Amended and Coauthored.

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