

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1773

By: Roan

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5
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;
8 amending 57 O.S. 2001, Section 563.3, as last amended
9 by Section 1, Chapter 147, O.S.L. 2008 (57 O.S. Supp.
10 2008, Section 563.3), which relates to contract
11 requirements for private prison contractors;
12 directing private prison contractors and vendors to
13 provide certain documentation to the Department of
14 Corrections for approval; providing penalties for
15 noncompliance; and providing an effective date.

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

17 SECTION 1. AMENDATORY 57 O.S. 2001, Section 563.3, as
18 last amended by Section 1, Chapter 147, O.S.L. 2008 (57 O.S. Supp.
19 2008, Section 563.3), is amended to read as follows:

20 Section 563.3 A. All private prison contractors and vendors
21 operating in Oklahoma shall provide construction plans and facility
22 staffing patterns to the Department of Corrections for approval
23 prior to commencement of construction of any new physical plant or
24 addition to existing facilities. Any private prison contractor or
vendor that fails to comply with the requirements of this subsection

1 shall be penalized according to the provisions of subsection E of
2 this section.

3 B. A private prison contractor which does not have a contract
4 with the Department of Corrections, but which houses federal inmates
5 or inmates of another state, within two (2) months of commencing
6 operations and thereafter as required by the Department of
7 Corrections, shall:

8 1. Obtain from the Department of Corrections approval of all
9 emergency response plans and the internal and perimeter security of
10 the facility of the private prison contractor. All emergency plans
11 for the private prison facility shall be approved by the Department
12 of Corrections annually on July 1 and within thirty (30) days of any
13 subsequent change or modification to any plan. Such approval shall
14 be given only if the Director of the Department of Corrections
15 determines that the security and emergency response plan are
16 adequate to protect the public;

17 2. Show, to the satisfaction of the Department of Corrections,
18 that adequate food, housing and medical care shall be available for
19 inmates, that the facility will have the necessary qualified
20 personnel to operate the facility, that the financial condition of
21 the private prison contractor is such that the facility can be
22 operated adequately, and that the facility has the ability to comply
23 with applicable court orders and American Correctional Association
24 standards;

1 3. Furnish to the Department of Corrections satisfactory proof
2 that the private prison contractor has obtained insurance or is
3 self-insured, in such a manner and in such an amount as the Director
4 of the Department of Corrections, after consulting with the Risk
5 Management Administration, may deem necessary and adequate to
6 reimburse this state or a political subdivision of this state, for
7 expenses arising from any incident which occurs at said prison or
8 which requires intervention by this state or a political subdivision
9 of this state. Such insurance, in addition, shall be in an amount
10 sufficient to indemnify this state and its officers and employees,
11 for any liability or other loss, including property damage,
12 judgments, costs, attorney fees or other expenses arising from the
13 operation of the facility, and such facility shall in any event and
14 regardless of the amount of insurance available indemnify and hold
15 harmless this state and its officers and employees, for any and all
16 acts of prison inmates, and/or all officers, employees and
17 stockholders of such private prison contractor for any liability
18 arising out of acts of said inmates, officers, employees and
19 stockholders of such private prison contractor in relation to the
20 operation of the facility. The insurance required by this paragraph
21 shall not provide coverage for more than one facility. If the
22 private prison contractor owns or operates more than one facility,
23 separate insurance coverage shall be obtained or provided for each
24 facility;

1 4. Obtain written authorization from the governing board of any
2 municipality in which the facility is to be located, or if the
3 facility is not to be located within a municipality, written
4 authorization from the board of county commissioners of the county
5 in which the facility is to be located; and

6 5. Ensure every employee or prospective employee of the private
7 prison contractor has submitted through the Department of
8 Corrections a national criminal history records check, as defined by
9 Section 150.9 of Title 74 of the Oklahoma Statutes. The private
10 prison contractor is hereby authorized to reimburse employees for
11 the cost of the search. 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 from national
15 criminal history records checks shall be maintained by the
16 Department of Corrections. The Department of Corrections shall not
17 disseminate any national criminal history records information to a
18 private entity.

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

1 ~~C.~~ D. The Department of Corrections shall monitor the
2 performance of the private prison contractor and the continued
3 compliance of the private prison contractor with the provisions of
4 ~~subsections A and B of this section~~ and Section 563.2 of this title.
5 If at any time after commencing operations, a private prison
6 contractor, that is subject to the provisions of subsection ~~A~~ B of
7 this section, fails to comply with any of said provisions, the
8 Director of the Department of Corrections may order the facility to
9 cease operations. If a private prison contractor fails to attain or
10 maintain the accreditation required by subsection ~~B~~ C of this
11 section, the Director of the Department of Corrections shall order
12 the facility to take corrective action pursuant to the Department of
13 Corrections monitoring plan and, if corrective action is not pursued
14 with due diligence, shall order the facility to cease operations.
15 This order may be enforced by injunction issued by a district court
16 of this state.

17 E. If the requirements provided for in this section are not
18 followed, the Director may recommend that the State Board of
19 Corrections assess the private prison contractor at least one-half
20 (1/2) the per diem rate up to but not to exceed the full per diem
21 rate paid by the jurisdiction or jurisdictions to the private prison
22 contractor for the period of time the violations, inmate conditions
23 or service deficiencies continue and are not corrected with due
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1 diligence. This would not preclude the Director from pursuing
2 ordering the facility to cease operations.

3 ~~D.~~ F. The Department of Corrections may charge the private
4 prison contractor a reasonable fee for any services provided by the
5 Department staff to include, but not limited to, the costs of
6 monitoring compliance with the provisions of paragraphs 1 and 2 of
7 subsection ~~A~~ B of this section. The fee shall not exceed the cost
8 incurred in performing the monitoring.

9 ~~E.~~ G. The Department of Corrections shall promulgate and adopt
10 rules for the implementation of this section.

11 ~~F.~~ H. All fees collected by the Department of Corrections
12 pursuant to this section shall be deposited with the State Treasurer
13 to the credit of the Department of Corrections Revolving Fund.

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

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16 52-1-5362 GRS 12/11/08

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