

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1781

By: Tibbs

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5
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;
8 amending 57 O.S. 2001, Section 563.2, as last amended
9 by Section 1, Chapter 476, O.S.L. 2005 (57 O.S. Supp.
10 2008, Section 563.2), which relates to the Oklahoma
11 Corrections Act of 1967; deleting authority of
12 private prison contractors to enter into certain
13 contracts for inmate housing; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 57 O.S. 2001, Section 563.2, as
17 last amended by Section 1, Chapter 476, O.S.L. 2005 (57 O.S. Supp.
18 2008, Section 563.2), is amended to read as follows:

19 Section 563.2 A. ~~Except as provided for in subsection B of~~
20 ~~this section,~~ a A private prison contractor may contract with the
21 federal government or another state to provide for housing, care and
22 control of minimum or medium security level inmates, as provided in
23 this section, who are in the custody of the United States or another
24 state, who do not have histories of escape from medium or maximum
security level correctional facilities for adults, who do not have
histories of rioting, and who are sentenced to terms of

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

12 ~~B. A private prison contractor operating a facility on January~~
13 ~~1, 2004, at twenty five percent (25%) or less capacity may contract~~
14 ~~with the federal government or another state to provide for housing,~~
15 ~~care and control of minimum or medium security level inmates~~
16 ~~provided the facility would be allowed to house the same type of~~
17 ~~inmates if contracting with this state.~~

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

22 ~~D.~~ C. A private prison contractor shall not employ any
23 personnel convicted of a felony if the person has been incarcerated
24 in the private prison facility for which an application for

1 employment is being considered; provided, a private prison
2 contractor may employ personnel convicted of drug-related felonies
3 who have been rehabilitated for programs for drug or other substance
4 abuse rehabilitation for inmates of the facility.

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

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

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

22 The Department of Corrections is authorized to provide training
23 to personnel of the private prison contractor, pursuant to contract.
24 The Department of Corrections shall charge a reasonable fee for the

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

1 be at the sole expense of the private prison contractor/operator.
2 Each responding agency shall submit a written invoice detailing
3 costs incurred which shall be paid within thirty (30) days of
4 receipt by the private prison contractor/operator.

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

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

12 2. Any maximum security level inmate.

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

22 ~~G.~~ F. A private prison contractor housing federal inmates from
23 jurisdictions other than Oklahoma, or inmates sentenced pursuant to
24 the legal authority of another state, shall not allow any such

1 inmate to leave the premises of the facility, except to comply with
2 an order to appear in a court of competent jurisdiction, to receive
3 medical care not available at the facility, to work as provided in
4 subsection ~~H~~ G of this section, or to return or be transferred to
5 another state as provided by the provisions of subsection ~~F~~ E of
6 this section.

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

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

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

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

21 4. The private prison contractor has procured and has in force
22 and effect a policy of liability insurance which will provide
23 coverage in an amount determined by the Department of Corrections
24 for any loss resulting from the acts or omissions of inmates

1 participating in such project or employees of the private prison
2 contractor and for any injuries occurring to the inmates or
3 employees; and

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

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

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

1 contractor. Private prison contractors housing federal inmates or
2 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
5 this state with federal inmates or inmates from another state,
6 unless segregated or otherwise housed in such a manner as to satisfy
7 the Director of the Department of Corrections.

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

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

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18 52-1-5339 GRS 01/05/09

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