

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 3010

By: Terrill

4
5
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;
8 amending 57 O.S. 2011, Section 563.3, which relates
9 to the Oklahoma Corrections Act of 1967; making
10 private prisons responsible for incarceration costs
11 of certain inmates; and providing an effective date.

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 57 O.S. 2011, Section 563.3, is
15 amended to read as follows:

16 Section 563.3 A. All private prison contractors and vendors
17 operating in Oklahoma shall provide construction plans to the
18 Department of Corrections for approval prior to commencement of
19 construction of any new physical plant or addition to existing
20 facilities. Approval shall be based on applicable American
21 Correctional Association construction standards. Any private prison
22 contractor or vendor that fails to comply with the requirements of
23 this subsection shall be penalized according to the provisions of
24 subsection E of this section.

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

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

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

23 3. Furnish to the Department of Corrections satisfactory proof
24 that the private prison contractor has obtained insurance or is

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

23 4. Obtain written authorization from the governing board of any
24 municipality in which the facility is to be located, or if the

1 facility is not to be located within a municipality, written
2 authorization from the board of county commissioners of the county
3 in which the facility is to be located; and

4 5. Ensure every employee or prospective employee of the private
5 prison contractor has submitted through the Department of
6 Corrections a national criminal history records check, as defined by
7 Section 150.9 of Title 74 of the Oklahoma Statutes. The private
8 prison contractor is hereby authorized to reimburse employees for
9 the cost of the search. The record required by this paragraph shall
10 include the name of the person, whether or not said person has been
11 convicted of any felony offense, a list of any felony convictions,
12 and the dates of such convictions. The search records from national
13 criminal history records checks shall be maintained by the
14 Department of Corrections. The Department of Corrections shall not
15 disseminate any national criminal history records information to a
16 private entity.

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

23 D. The Department of Corrections shall monitor the performance
24 of the private prison contractor and the continued compliance of the

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

14 E. If the requirements provided for in this section are not
15 followed, the Director may recommend that the State Board of
16 Corrections assess the private prison contractor at least one-half
17 (1/2) the per diem rate up to but not to exceed the full per diem
18 rate paid by the jurisdiction or jurisdictions to the private prison
19 contractor for the period of time a violation of subsection A of
20 this section continues and is not corrected with due diligence or
21 when the Department of Corrections has identified other physical
22 plant security deficiencies based on American Correctional
23 Association standards and such deficiencies continue and are not
24 corrected with due diligence. The penalty provided for in this

1 subsection shall not preclude the Director from ordering the
2 facility to cease operations.

3 F. The Department of Corrections may charge the private prison
4 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 B of this section. The fee shall not exceed the cost
8 incurred in performing the monitoring.

9 G. Whenever an inmate from another state or an inmate of the
10 federal government receives a prison sentence in the State of
11 Oklahoma for a crime or crimes committed while incarcerated at the
12 private prison, the Department of Corrections shall charge the
13 private prison for the incarceration of the inmate at the rate equal
14 to the private prison per diem rate.

15 H. The Department of Corrections shall promulgate and adopt
16 rules for the implementation of this section.

17 ~~H.~~ I. All fees collected by the Department of Corrections
18 pursuant to this section shall be deposited with the State Treasurer
19 to the credit of the Department of Corrections Revolving Fund.

20 SECTION 2. This act shall become effective November 1, 2012.

21

22 53-2-9051 GRS 01/05/12

23

24