

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 31*

Judiciary II/Election Laws Committee Substitute Adopted 4/6/95

Short Title: Allow Private Prisons.

(Public)

Sponsors:

Referred to:

January 26, 1995

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR THE CONTRACTING OF PRIVATE PRISONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-37(c) reads as rewritten:

"(c) In addition to the authority contained in subsections (a) and (b) of this section, and in addition to the contracts ratified by subsection (f) of this section, the Secretary of Correction may enter into contracts with any public entity or any private nonprofit or for-profit firms for the confinement and care of State prisoners in any out-of-state correctional facility when to do so would most economically and effectively promote the purposes served by the Department of Correction. Subject to the provisions of subsection (e) of this section, the combined authority contained in this subsection and in subsection (f) of this section may be used to house a maximum of 1,000 prisoners at any one time, which maximum shall include those housed on March 25, 1994, under contracts ratified by subsection (f) of this section. Prisoners may be sent to out-of-state correctional facilities only when there are no available facilities in this State within the State prison system to appropriately house those prisoners. Any contract made under the authority of this subsection shall expire not later than June 30, 1995, and shall be approved by the Department of Administration before the contract is executed."

Sec. 2. G.S. 148-37 is amended by adding a new subsection to read:

1 "g) The Secretary of Correction may contract with private for-profit or nonprofit
2 firms for the provision and operation of confinement facilities in the State to house State
3 prisoners. Contracts entered under the authority of this section may contain an option to
4 purchase such facilities, shall be for a period not to exceed 10 years, shall be renewable
5 from time to time for a period not to exceed 10 years, and are subject to the approval of
6 the Council of State and the Department of Administration. The Department of
7 Correction shall give priority to facilities intended for joint county and State use where
8 such facilities are developed by public/private partnerships and financed by tax-exempt
9 bond issues, and where such facilities offer general terms and conditions favorable to the
10 State in the competitive bidding process pursuant to Article 8 of Chapter 143 of the
11 General Statutes. All contracts for the housing of State prisoners in private confinement
12 facilities shall require at least ten million dollars (\$10,000,000) of occurrence-based
13 liability insurance and shall hold the State harmless and provide reimbursement for all
14 liability arising out of actions caused by operations and employees of the private
15 confinement facility. Prisoners housed in private confinement facilities pursuant to this
16 subsection shall remain subject to the rules adopted for the conduct of persons committed
17 to the State prison system. The Secretary of Correction shall review and approve the
18 design and construction of private confinement facilities before housing State prisoners in
19 these facilities. The rules regarding good time, gain time, and earned credits, discipline,
20 classification, extension of the limits of confinement, transfers, housing arrangements,
21 and eligibility for parole shall apply to inmates housed in private confinement facilities
22 pursuant to this subsection. The operators of private confinement facilities may adopt
23 any other rules as may be necessary for the operation of those facilities with the written
24 approval of the Secretary of Correction. Custodial officials employed by a private
25 confinement facility are agents of the Secretary of Correction and may use those
26 procedures for use of force authorized by the Secretary of Correction to defend
27 themselves, to enforce the observance of discipline in compliance with confinement
28 facility rules, to secure the person of a prisoner, and to prevent escape. The authority of
29 the Secretary of Correction to enter contracts under this subsection shall expire on June
30 30, 2000."

31 Sec. 3. Section 176 of Chapter 321 of the 1993 Session Laws reads as
32 rewritten:

33 "~~Sec. 176. No for-profit, privately owned or operated confinement facilities may be~~
34 ~~added to the State prison system unless approved by the General Assembly.~~
35 ~~Notwithstanding the provisions of this section or any other provision of law, the~~
36 ~~Secretary of Correction may issue a request for proposal or employ other appropriate~~
37 ~~bidding process or procedure to determine contract terms or conditions under which~~
38 ~~private for-profit or nonprofit firms would offer to provide and operate treatment centers~~
39 ~~at various locations across the State totalling 500 beds for prisoners committed to the~~
40 ~~custody of the Department of Correction who are diagnosed as needing treatment for~~
41 ~~alcohol or drug abuse. The State may continue its existing contracts with private,~~
42 ~~nonprofit firms to provide or operate work and study release centers for women and for~~
43 ~~youth.~~

1 The solicitation of bids for alcohol or drug treatment centers does not authorize the
2 Secretary of Correction to enter into contracts with private for-profit or nonprofit firms to
3 provide and operate such treatment centers. The Secretary of Correction shall report the
4 results of the solicitation of bids to the Speaker of the House of Representatives, the
5 President Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations
6 Committees, the Chairs of the House and Senate Appropriations Subcommittees on
7 Justice and Public Safety, the Joint Legislative Commission on Governmental
8 Operations, and the Fiscal Research Division by April 15, 1994."

9 Sec. 4. The Secretary of Correction shall report not later than January 1, 1999,
10 to the Joint Legislative Corrections Oversight Committee and to the General Assembly
11 on the use of private correctional facilities to house State prisoners. The report shall
12 include an analysis of the costs and benefits of State contracts for private correctional
13 facilities and shall contain the Secretary's recommendations with regard to such contracts.

14 Sec. 5. This act is effective upon ratification.