

1 **PRIVATE PRISON REQUIREMENTS**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Brad King**

5 AN ACT RELATING TO CORRECTIONS AND STATE INSTITUTIONS; CREATING  
6 STANDARDS AND REQUIREMENTS FOR A PRIVATE CORRECTIONAL FACILITY TO  
7 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO HOUSE AND PROVIDE  
8 SERVICES FOR INMATES.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 ENACTS:

11 **64-13c-101**, Utah Code Annotated 1953

12 **64-13c-102**, Utah Code Annotated 1953

13 **64-13c-103**, Utah Code Annotated 1953

14 **64-13c-104**, Utah Code Annotated 1953

15 **64-13c-105**, Utah Code Annotated 1953

16 **64-13c-106**, Utah Code Annotated 1953

17 **64-13c-107**, Utah Code Annotated 1953

18 **64-13c-108**, Utah Code Annotated 1953

19 *Be it enacted by the Legislature of the state of Utah:*

20 Section 1. Section **64-13c-101** is enacted to read:

21 **CHAPTER 13c. PRIVATE CORRECTIONAL FACILITIES ACT**

22 **64-13c-101. Title.**

23 This chapter is known as the "Private Correctional Facilities Act."

24 Section 2. Section **64-13c-102** is enacted to read:

25 **64-13c-102. Definitions.**

26 (1) As used in this chapter:

27 (a) "Contractor" means a private entity seeking to contract with or currently contracting

28 with the department to establish or operate a private correctional facility.

29 (b) "Correctional services" means those services necessary for the operation of a  
30 correctional facility, including the provision of food, clothing, security, programs, and health care.

31 (c) "Facility" means a private correctional facility established or operated under a contract  
32 with the department.

33 (2) The definitions used under Section 64-13-1 apply to this chapter.

34 Section 3. Section **64-13c-103** is enacted to read:

35 **64-13c-103. Private contracts.**

36 (1) The department may contract with a contractor to finance, acquire, construct, lease, or  
37 provide full or partial correctional services.

38 (2) Before entering into a contract, the department shall require that the contractor  
39 proposing to provide the services demonstrate that it has:

40 (a) management personnel with the qualifications and experience necessary to carry out  
41 the terms of the contract;

42 (b) sufficient financial resources to:

43 (i) complete and operate the facility;

44 (ii) provide indemnification for liability arising from the operation of the facility; and

45 (iii) provide reimbursement as required under Section 64-13c-501;

46 (c) the ability and resources to meet applicable court orders, correctional standards as  
47 defined by the department, and constitutional requirements; and

48 (d) liability insurance adequate to protect the state, the political subdivision where the  
49 facility is located, and the officers and employees of the facility from all claims and losses  
50 incurred as a result of the operation of the facility.

51 (3) A contract awarded for the operation of a facility shall be consistent with commonly  
52 accepted correctional practices as defined by the department and shall include:

53 (a) adequate internal and perimeter security to protect the public, employees, and inmates,  
54 based on the security level of the inmate population;

55 (b) work, training, educational, and treatment programs for inmates;

56 (c) a minimum staff to inmate ratio;

57 (d) imposition of inmate discipline in accordance with applicable state law and department  
58 policy; and

59 (e) adequate food, clothing, housing, and medical care for inmates.

60 Section 4. Section **64-13c-104** is enacted to read:

61 **64-13c-104. Use of force -- Private prison employees.**

62 (1) Employees of a facility contractor may use reasonable force to the extent allowed by  
63 state law. The use of force, power, and authority shall be limited to:

64 (a) the grounds of a facility operated in whole or in part by their employer;

65 (b) when transporting inmates; and

66 (c) when pursuing escapees from the facility.

67 (2) Training standards for employees of a contractor shall be in accordance with the  
68 standards in Section 64-13-24.

69 (3) Subsection (2) does not confer peace officer status on the contractor or its employees.

70 Section 5. Section **64-13c-105** is enacted to read:

71 **64-13c-105. Restricted powers and duties of contractors.**

72 (1) A contract for correctional services may not authorize a contractor to perform the  
73 following:

74 (a) calculate or establish inmate release and parole eligibility dates;

75 (b) grant, deny, or revoke sentence credit;

76 (c) approve inmates for furlough, work release, or parole; or

77 (d) approve the types of work inmates may perform.

78 (2) A contractor shall reimburse amounts incurred by local and state agencies for providing  
79 assistance with riots, escapes, transportation, medical services, and legal services regarding the  
80 operation of the facility.

81 (3) A contractor shall have in place a written plan approved by the department regarding  
82 the reporting and management of escapes, riots, and other emergency situations.

83 Section 6. Section **64-13c-106** is enacted to read:

84 **64-13c-106. Monitoring contracts.**

85 (1) The executive director or his designee shall monitor the performance of all facilities  
86 incarcerating inmates under the jurisdiction of the department.

87 (2) The executive director or his designee shall have unlimited access to all facilities,  
88 records, and staff for monitoring purposes.

89 (3) The executive director may appoint a monitor to inspect a facility. The monitor shall

90 have unlimited access to all facilities, records, and staff for monitoring purposes.

91 (4) The department shall be reimbursed by the entity operating the facility for that portion  
92 of the salary and expenses of the monitor attributable to monitoring the particular facility.

93 (5) Monitoring consists of ensuring that:

94 (a) all state laws, department rules, and contractual obligations applicable to the facility  
95 are being met; and

96 (b) all operations are effective, efficient, and economical.

97 Section 7. Section **64-13c-107** is enacted to read:

98 **64-13c-107. Facility construction -- Housing out-of-state inmates.**

99 (1) A contractor may not expand its original housing capacity except as necessary to carry  
100 out its contract with the department.

101 (2) A contractor may incarcerate out-of-state inmates in a facility operated in the state with  
102 the executive director's approval.

103 (3) The executive director shall establish the highest security level, using the department's  
104 classification criteria, at which out-of-state inmates may be eligible for incarceration in the facility.

105 (4) Out-of-state inmates may not be released in Utah, unless the state has a detainer on the  
106 inmate or has accepted custody of the inmate through the interstate compact. In every other case,  
107 out-of-state inmates shall be returned to the custody of the sending jurisdiction, or other  
108 jurisdiction that has agreed to accept custody of the inmate, prior to the inmate's release from  
109 custody.

110 (5) A facility housing out-of-state inmates may not allow an inmate to leave the premises  
111 of the facility, except to:

112 (a) comply with an order to appear in a court of competent jurisdiction;

113 (b) receive medical care not available at the facility;

114 (c) release custody of the inmate under Subsection (4); or

115 (d) participate in a public works project under Subsection (6).

116 (6) A contractor may allow out-of-state inmates to work on public works projects outside  
117 the facility provided that:

118 (a) the public works project is located in the county or the county adjacent to where the  
119 facility is located; and

120 (b) the public works project is authorized by the department and the county where the

121 public works project is located.

122 Section 8. Section **64-13c-108** is enacted to read:

123 **64-13c-108. Private entity must contract with department.**

124 An entity may not establish a facility in the state without a contract with the department.

---

---

**Legislative Review Note**  
**as of 2-1-99 10:50 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**