

PRIVATE PRISON REQUIREMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Brad King

AN ACT RELATING TO CORRECTIONS AND STATE INSTITUTIONS; CREATING STANDARDS AND REQUIREMENTS FOR A PRIVATE ENTITY TO CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO HOUSE AND PROVIDE SERVICES FOR INMATES; AND PROVIDING AN EFFECTIVE DATE.

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

ENACTS:

64-13c-101, Utah Code Annotated 1953

64-13c-102, Utah Code Annotated 1953

64-13c-103, Utah Code Annotated 1953

64-13c-104, Utah Code Annotated 1953

64-13c-105, Utah Code Annotated 1953

64-13c-106, Utah Code Annotated 1953

64-13c-107, Utah Code Annotated 1953

64-13c-108, Utah Code Annotated 1953

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

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

CHAPTER 13c. PRIVATE CORRECTIONAL FACILITIES ACT

64-13c-101. Title.

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

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

64-13c-102. Definitions.

(1) As used in this chapter:

(a) "Contractor" means a private entity seeking to contract with or currently contracting with the department to establish or operate a private correctional facility.

(b) "Correctional services" means those services necessary for the operation of a

correctional facility, including the provision of food, clothing, security, programs, and health care.

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

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

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

64-13c-103. Private contracts.

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

(2) Before entering into a contract, the department shall:

(a) hold a public hearing within the county or municipality where the facility is to be sited for the purpose of obtaining public comment;

(b) give consideration to the input received at the public hearing when making decisions regarding the awarding of a contract and the contract process; and

(c) have received written notification from the legislative body of the municipality or county where the proposed facility is to be sited, stating that the legislative body has agreed to the establishment of the facility within its boundaries.

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

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

(b) sufficient financial resources to:

(i) complete and operate the facility;

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

(iii) provide reimbursement as required under Section 64-13c-105;

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

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

of action or inaction by the contractor or its employees.

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

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

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

(c) a minimum correctional officer to inmate ratio;

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

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

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

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

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

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

(b) when transporting inmates; and

(c) when pursuing escapees from the facility.

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

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

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

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

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

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

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

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

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

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

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

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

64-13c-106. Monitoring contracts.

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

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

(3) The executive director may appoint a monitor to inspect a facility. The monitor shall have unlimited access to all facilities, records, and staff for monitoring purposes.

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

(5) Monitoring consists of ensuring that:

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

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

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

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

(1) A contractor may not expand its original housing capacity without the approval of the:

(a) Legislature; and

(b) county or municipal legislative body within whose jurisdiction the facility is located.

(2) A contractor may not incarcerate out-of-state inmates in a facility operated in the state, except in accordance with any interstate compact of which Utah is a party.

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

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

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

Section 9. Effective date.

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.