SENATE COMMITTEE OF REFERENCE REPORT

February 12, 2020

Chair of Committee          Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB20-1019 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

Amend reengrossed bill, page 2, after line 1, insert:

"SECTION 1. In Colorado Revised Statutes, 17-1-102, amend (7.3) as follows:

17-1-102. Definitions. As used in this title 17, unless the context otherwise requires:
(7.3) "Private contract prison" means any private prison facility in this state operated by a county, city and county, or private corporation located in this state; except that "private contract prison" does not include any local jail, multijurisdictional jail, or community corrections center."

Renumber succeeding sections accordingly.

Page 5, strike line 5 and substitute "(2)(a) and (2)(b); and add (3), (4), (5), and (6) as follows".

Page 5, strike lines 10 through 19 and substitute:
"subdivision of the state
(a) without the express approval of the executive director which approval shall not be unreasonably withheld; and UPON RECEIPT OF A REQUEST BY A STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.
(b) (3) Unless the private contract prison facility or a prison facility operated by a political subdivision is designed to meet or exceed
the appropriate security level for the inmate. In order to protect the
health, safety, and other interests of Colorado, prior to
approving the request in subsection (2) of this section, the
director shall ensure that the following provisions are
adequately addressed in the contract or other binding
document between the sending state, the private contract
facility, and any political subdivision in the state of Colorado:

(a) The custody level of the inmate from other states
does not exceed the custody level permissible in section
17-1-104.9;

(b) The staffing level is adequate related to the number
of inmates from the sending state and the inmates' security
level;

(c) There is no commingling of inmates from multiple
states or their political subdivisions who are co-located at a
single private contract prison facility in Colorado;

(d) The sending state has a plan to adequately monitor
operations, staff and inmate safety, and contract compliance;

(e) The contract between the sending state, the private
contract prison facility located in Colorado, and any political
subdivision in Colorado includes a clause that indemnifies the
state of Colorado and any of its political subdivisions from any
liability related to litigation that may be filed regarding
conditions of confinement, transport, treatment of inmates, or
any other cause of action related to the housing of inmates
from other states in a private contract prison facility located
in Colorado;

(f) The contracting parties provide proof of adequate
insurance coverage that names Colorado and any of its
political subdivisions not a party to the contract as
additionally insured;

(g) The contract between the sending state, the private
contract prison facility located in Colorado, and any political
subdivision in Colorado includes a clause that the contracting
parties assume joint and several liability for reimbursing all
costs to the state or any of its political subdivisions in the event
of any incident, crime, or riot by the inmates from other states
that requires the engagement of state or local law
enforcement, corrections, medical personnel, criminal
investigators, prosecution, or incarceration pursuant to a
conviction in a Colorado court;
(h) AN INMATE FROM ANOTHER STATE SHALL NOT BE
TRANSFERRED TO A PRIVATE CONTRACT PRISON FACILITY IN COLORADO IF
HE OR SHE IS WITHIN TWELVE MONTHS OF HIS OR HER ELIGIBLE RELEASE
DATE;

(i) THERE IS AN ADEQUATE PLAN TO PROVIDE FOR THE MEDICAL
AND MENTAL HEALTH CARE OF THE INMATES FROM OTHER STATES WHO
ARE HOUSED IN A PRIVATE CONTRACT PRISON FACILITY IN COLORADO; AND

(j) SUCH OTHER CRITERIA FOR THE PROTECTION OF THE HEALTH,
SAFETY, AND LIABILITY INTERESTS OF THE STATE OF COLORADO AS
DEVELOPED BY THE EXECUTIVE DIRECTOR.

(4) THE SENDING STATE IS SOLELY RESPONSIBLE FOR MONITORING
THE DAY-TO-DAY FACILITY OPERATIONS, TRANSPORT, PROGRAMMING,
SERVICE DELIVERY, AND CONDITIONS OF CONFINEMENT IN A PRIVATE
CONTRACT FACILITY IN COLORADO THAT HOUSES INMATES FROM THE
SENDING STATE.

(5) THE SENDING STATE AND THE PRIVATE CONTRACT PRISON
FACILITY SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH INFORMATION
OR DATA NEEDED TO ENSURE COMPLIANCE WITH THIS SECTION.

(6) UPON A VIOLATION OF THIS SECTION, THE EXECUTIVE DIRECTOR
MAY RESCIND HIS OR HER APPROVAL PURSUANT TO SUBSECTION (2) OF
THIS SECTION AND MUST PROVIDE AT LEAST SIXTY DAYS' NOTICE TO THE
CONTRACTING PARTIES OF THE RECISION."

Page 5, strike lines 20 through 27.

Page 6, strike lines 1 through 10.

Page 6, strike lines 14 and 15 and substitute "DEPARTMENT OF LOCAL
AFFAIRS SHALL CONTRACT WITH A NATIONALLY RECOGNIZED PRISON
ACCREDITATION ENTITY TO STUDY FUTURE PRISON BED NEEDS IN
COLORADO. WHILE CONDUCTING THE STUDY, THE ENTITY"

Page 6 of the bill, strike lines 20 through 22 and substitute:

"(b) THE DEPARTMENT SHALL CONVENE AN ADVISORY COMMITTEE
THAT CONTAINS THREE REPRESENTATIVES OF LOCAL GOVERNMENTS, OF
WHICH AT LEAST TWO MUST BE COUNTY COMMISSIONERS, SELECTED BY
THE EXECUTIVE DIRECTOR, FROM EACH COUNTY THAT HAS A PRIVATE
PRISON TO CONSULT WITH THE ENTITY DURING THE STUDY.".

Page 6, lines 23 and 24, strike "STOP USING PRIVATE PRISONS AND MOVE"
and substitute "SAFELY REDUCE THE PRISON POPULATION, INCLUDING
MOVING".

Page 6, strike lines 25 and 26.

Renumber succeeding subparagraphs accordingly.

Page 6, line 27 and page 7, line 1, strike "IMPACT THAT REDUCING PRIVATE PRISON BEDS" and substitute "ECONOMIC AND OTHER IMPACTS THAT POTENTIAL PRISON CLOSURE".

Page 7, strike line 2 and substitute "THE WIDER COMMUNITY AND RECOMMENDATIONS ON STRATEGIES TO DIVERSIFY THE LOCAL ECONOMY;".

Page 7, line 3, strike "STATE-OPERATED" and substitute "STATE AND PRIVATELY OPERATED FACILITIES".

Page 7, strike lines 6 and 7 and substitute:

"(IV) AN ANALYSIS OF PROGRAMS PROVIDED AT STATE AND PRIVATELY OPERATED FACILITIES AND PROGRAM MODIFICATIONS OR EXPANSIONS THAT MAY BE NECESSARY TO ALIGN WITH BEST PRACTICES OR TO KEEP PACE WITH DEMAND;".

Page 7 of the bill, line 11, after "SAFETY;" add "AND".

Page 7, strike line 13, and substitute "OBTAIN PRIVATELY OWNED FACILITIES OR UTILIZE UNUSED STATE-OWNED BUILDINGS IN COLORADO.".

Page 7 of the bill, strike lines 14 through 17 and substitute:

"(c) PRIOR TO COMPLETING THE STUDY, THE DEPARTMENT, IN CONJUNCTION WITH THE COUNTY COMMISSIONERS, SHALL PROVIDE NOTICE AND CONDUCT PUBLIC HEARINGS IN THE COUNTIES IN WHICH PRIVATE PRISONS ARE LOCATED TO ALLOW DIRECT PUBLIC TESTIMONY AND INPUT, WHICH THE DEPARTMENT SHALL INCLUDE IN THE FINAL REPORT.".

Reletter succeeding paragraph accordingly.

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