A BILL FOR AN ACT

CONCERNING RESTRICTIONS ON GOVERNMENTAL PARTICIPATION IN CIVIL IMMIGRATION DETENTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The United States immigration and customs enforcement, the federal agency responsible for overseeing and implementing policies related to immigration detention, contracts out a portion of its detention capacity to state and local governments. State and local governments may then subcontract with prisons or immigration detention facilities that are owned, managed, or operated by private entities to house or detain
individuals for federal civil immigration purposes.

Beginning on January 1, 2024, the bill prohibits the state and any local government in the state (governmental entity) from:

- Entering into an agreement for the detention of individuals in an immigration detention facility that is owned, managed, or operated by a private entity;
- Selling any government-owned property for the purpose of establishing an immigration detention facility that is or will be owned, managed, or operated by a private entity;
- Paying any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated by a private entity;
- Receiving any payment related to the detention of individuals in an immigration detention facility that is owned, managed, or operated by a private entity; or
- Giving financial incentives or benefits to a private entity in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated by a private entity.

In addition, beginning on January 1, 2024, the bill prohibits a governmental entity from entering into or renewing an agreement for payment to house or detain individuals for federal civil immigration purposes (immigration detention agreement). The bill also requires a governmental entity with an existing immigration detention agreement to exercise the termination provision contained in the agreement by a specified date.

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Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The management and operation of detention facilities for immigrants involves functions that require unique training due to its civil nature, the diverse languages and backgrounds of the population, and the significant vulnerabilities of asylum seekers and others fleeing persecution;

(b) Detention requires the exercise of coercive police powers over
individuals that should not be delegated to the private sector and that is distinguishable from privatization in other areas of government;

(c) It is an inappropriate exercise of a state's police powers to detain individuals for federal immigration purposes given its implication on foreign relations; and

(d) Issues of liability, accountability, and cost warrant a prohibition of the ownership, operation, or management of detention facilities by private contractors within the state and a phasing out of state and local officials' involvement in civil immigration detention to the fullest extent permitted under state law.

(2) The general assembly further finds and declares that it is necessary to adopt this act to prohibit state and local governments from contracting for the management or operation of immigration detention and from facilitating the operation of immigration detention facilities in the state by private entities.

SECTION 2. In Colorado Revised Statutes, add article 76.7 to title 24 as follows:

ARTICLE 76.7

Prohibit State And Local Government Involvement In Immigration Detention

24-76.7-101. Definitions. As used in this article 76.7, unless the context otherwise requires:

(1) "GOVERNMENTAL ENTITY" MEANS THE STATE, ANY UNIT OF LOCAL GOVERNMENT, A COUNTY SHERIFF, OR ANY AGENCY, OFFICER, EMPLOYEE, OR AGENT THEREOF.

(2) "IMMIGRATION DETENTION AGREEMENT" MEANS ANY CONTRACT, INCLUDING BUT NOT LIMITED TO AN INTERGOVERNMENTAL
SERVICE AGREEMENT, OR PORTION THEREOF FOR PAYMENT TO A GOVERNMENTAL ENTITY TO DETAIN INDIVIDUALS FOR FEDERAL CIVIL IMMIGRATION PURPOSES. FOR A CONTRACT OR INTERGOVERNMENTAL SERVICE AGREEMENT THAT IS ONLY IN PART FOR THE DETENTION OF INDIVIDUALS FOR FEDERAL IMMIGRATION OFFICIALS, THIS TERM ONLY APPLIES TO THE CIVIL IMMIGRATION DETENTION PORTION OF THE CONTRACT.

(3) "IMMIGRATION DETENTION FACILITY" MEANS ANY BUILDING, FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR DETAIN INDIVIDUALS FOR FEDERAL IMMIGRATION OFFICIALS.

24-76.7-102. Governmental entities - agreements with privately owned immigration detention facilities - prohibition.

(1) BEGINNING ON JANUARY 1, 2024, A GOVERNMENTAL ENTITY SHALL NOT:

(a) ENTER INTO AN AGREEMENT OF ANY KIND FOR THE DETENTION OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY THAT IS OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(b) SELL ANY PUBLIC OR GOVERNMENT-OWNED PROPERTY OR BUILDING FOR THE PURPOSE OF ESTABLISHING AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(c) PAY, REIMBURSE, SUBSIDIZE, OR DEFRAY IN ANY WAY ANY COSTS RELATED TO THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT, OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(d) RECEIVE PER DIEM, PER DETAINEE, OR ANY OTHER PAYMENT
RELATED TO THE DETENTION OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY THAT IS OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY; OR

(e) OTHERWISE GIVE ANY FINANCIAL INCENTIVE OR BENEFIT TO ANY PRIVATE ENTITY OR PERSON IN CONNECTION WITH THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT, OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY.

(2) NOTHING IN THIS ARTICLE 76.7 SHALL BE CONSTRUED TO PROHIBIT A GOVERNMENTAL ENTITY FROM PROVIDING HEALTH AND SAFETY RESOURCES TO INDIVIDUALS WHO ARE BEING DETAINED FOR IMMIGRATION PURPOSES.

(3) NOTHING IN THIS ARTICLE 76.7 SHALL BE CONSTRUED TO PROHIBIT ANY UNIT OF LOCAL GOVERNMENT FROM CONTRACTING FOR HEALTH, UTILITY, AND SANITATION SERVICES TO IMMIGRATION DETENTION FACILITIES.

24-76.7-103. Governmental entities - eliminate involvement in immigration detention. (1) BEGINNING ON JANUARY 1, 2024, A GOVERNMENTAL ENTITY SHALL NOT ENTER INTO OR RENEW AN IMMIGRATION DETENTION AGREEMENT.

(2) A GOVERNMENTAL ENTITY WITH AN EXISTING IMMIGRATION DETENTION AGREEMENT ON JANUARY 1, 2024, SHALL EXERCISE ANY TERMINATION PROVISION CONTAINED IN THE AGREEMENT NO LATER THAN JANUARY 1, 2024. IF AN EXISTING IMMIGRATION DETENTION AGREEMENT DOES NOT CONTAIN A TERMINATION PROVISION THAT THE GOVERNMENTAL ENTITY CAN EXERCISE BY JANUARY 1, 2024, THEN THE GOVERNMENTAL
ENTITY SHALL EXERCISE THE TERMINATION PROVISION AS SOON AS POSSIBLE WITHIN THE TERMS OF THE IMMIGRATION DETENTION AGREEMENT.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.