

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

February 12, 2020

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:

- 1 Amend reengrossed bill, page 2, after line 1, insert:
2 "SECTION 1. In Colorado Revised Statutes, 17-1-102, **amend**
3 (7.3) as follows:
4 **17-1-102. Definitions.** As used in this title 17, unless the context
5 otherwise requires:
6 (7.3) "Private contract prison" means any private prison facility
7 IN THIS STATE operated by a ~~county, city and county, or private~~
8 ~~corporation located in this state~~ POLITICAL SUBDIVISION OF THIS STATE OR
9 AN INCORPORATED OR UNINCORPORATED BUSINESS ENTITY; except that
10 "private contract prison" does not include any local jail,
11 multijurisdictional jail, or community corrections center."
- 12 Renumber succeeding sections accordingly.
- 13 Page 5, strike line 5 and substitute "(2)(a) and (2)(b); and **add** (3), (4),
14 (5), and (6) as follows".
- 15 Page 5, strike lines 10 through 19 and substitute:
16 "subdivision of the state
17 (a) without the express approval of the executive director which
18 approval shall not be unreasonably withheld; and UPON RECEIPT OF A
19 REQUEST BY A STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.
20 (b) (3) ~~Unless the private contract prison facility or a prison~~
21 ~~facility operated by a political subdivision is designed to meet or exceed~~

1 ~~the appropriate security level for the inmate.~~ IN ORDER TO PROTECT THE
2 HEALTH, SAFETY, AND OTHER INTERESTS OF COLORADO, PRIOR TO
3 APPROVING THE REQUEST IN SUBSECTION (2) OF THIS SECTION, THE
4 DIRECTOR SHALL ENSURE THAT THE FOLLOWING PROVISIONS ARE
5 ADEQUATELY ADDRESSED IN THE CONTRACT OR OTHER BINDING
6 DOCUMENT BETWEEN THE SENDING STATE, THE PRIVATE CONTRACT
7 FACILITY, AND ANY POLITICAL SUBDIVISION IN THE STATE OF COLORADO:

8 (a) THE CUSTODY LEVEL OF THE INMATE FROM OTHER STATES
9 DOES NOT EXCEED THE CUSTODY LEVEL PERMISSIBLE IN SECTION
10 17-1-104.9;

11 (b) THE STAFFING LEVEL IS ADEQUATE RELATED TO THE NUMBER
12 OF INMATES FROM THE SENDING STATE AND THE INMATES' SECURITY
13 LEVEL;

14 (c) THERE IS NO COMMINGLING OF INMATES FROM MULTIPLE
15 STATES OR THEIR POLITICAL SUBDIVISIONS WHO ARE CO-LOCATED AT A
16 SINGLE PRIVATE CONTRACT PRISON FACILITY IN COLORADO;

17 (d) THE SENDING STATE HAS A PLAN TO ADEQUATELY MONITOR
18 OPERATIONS, STAFF AND INMATE SAFETY, AND CONTRACT COMPLIANCE;

19 (e) THE CONTRACT BETWEEN THE SENDING STATE, THE PRIVATE
20 CONTRACT PRISON FACILITY LOCATED IN COLORADO, AND ANY POLITICAL
21 SUBDIVISION IN COLORADO INCLUDES A CLAUSE THAT INDEMNIFIES THE
22 STATE OF COLORADO AND ANY OF ITS POLITICAL SUBDIVISIONS FROM ANY
23 LIABILITY RELATED TO LITIGATION THAT MAY BE FILED REGARDING
24 CONDITIONS OF CONFINEMENT, TRANSPORT, TREATMENT OF INMATES, OR
25 ANY OTHER CAUSE OF ACTION RELATED TO THE HOUSING OF INMATES
26 FROM OTHER STATES IN A PRIVATE CONTRACT PRISON FACILITY LOCATED
27 IN COLORADO;

28 (f) THE CONTRACTING PARTIES PROVIDE PROOF OF ADEQUATE
29 INSURANCE COVERAGE THAT NAMES COLORADO AND ANY OF ITS
30 POLITICAL SUBDIVISIONS NOT A PARTY TO THE CONTRACT AS
31 ADDITIONALLY INSURED;

32 (g) THE CONTRACT BETWEEN THE SENDING STATE, THE PRIVATE
33 CONTRACT PRISON FACILITY LOCATED IN COLORADO, AND ANY POLITICAL
34 SUBDIVISION IN COLORADO INCLUDES A CLAUSE THAT THE CONTRACTING
35 PARTIES ASSUME JOINT AND SEVERAL LIABILITY FOR REIMBURSING ALL
36 COSTS TO THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS IN THE EVENT
37 OF ANY INCIDENT, CRIME, OR RIOT BY THE INMATES FROM OTHER STATES
38 THAT REQUIRES THE ENGAGEMENT OF STATE OR LOCAL LAW
39 ENFORCEMENT, CORRECTIONS, MEDICAL PERSONNEL, CRIMINAL
40 INVESTIGATORS, PROSECUTION, OR INCARCERATION PURSUANT TO A
41 CONVICTION IN A COLORADO COURT;

1 (h) AN INMATE FROM ANOTHER STATE SHALL NOT BE
2 TRANSFERRED TO A PRIVATE CONTRACT PRISON FACILITY IN COLORADO IF
3 HE OR SHE IS WITHIN TWELVE MONTHS OF HIS OR HER ELIGIBLE RELEASE
4 DATE;
5 (i) THERE IS AN ADEQUATE PLAN TO PROVIDE FOR THE MEDICAL
6 AND MENTAL HEALTH CARE OF THE INMATES FROM OTHER STATES WHO
7 ARE HOUSED IN A PRIVATE CONTRACT PRISON FACILITY IN COLORADO; AND
8 (j) SUCH OTHER CRITERIA FOR THE PROTECTION OF THE HEALTH,
9 SAFETY, AND LIABILITY INTERESTS OF THE STATE OF COLORADO AS
10 DEVELOPED BY THE EXECUTIVE DIRECTOR.
11 (4) THE SENDING STATE IS SOLELY RESPONSIBLE FOR MONITORING
12 THE DAY-TO-DAY FACILITY OPERATIONS, TRANSPORT, PROGRAMMING,
13 SERVICE DELIVERY, AND CONDITIONS OF CONFINEMENT IN A PRIVATE
14 CONTRACT FACILITY IN COLORADO THAT HOUSES INMATES FROM THE
15 SENDING STATE.
16 (5) THE SENDING STATE AND THE PRIVATE CONTRACT PRISON
17 FACILITY SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH INFORMATION
18 OR DATA NEEDED TO ENSURE COMPLIANCE WITH THIS SECTION.
19 (6) UPON A VIOLATION OF THIS SECTION, THE EXECUTIVE DIRECTOR
20 MAY RESCIND HIS OR HER APPROVAL PURSUANT TO SUBSECTION (2) OF
21 THIS SECTION AND MUST PROVIDE AT LEAST SIXTY DAYS' NOTICE TO THE
22 CONTRACTING PARTIES OF THE RECISION."

23 Page 5, strike lines 20 through 27.

24 Page 6, strike lines 1 through 10.

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

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

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

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

- 1 MOVING".
- 2 Page 6, strike lines 25 and 26.
- 3 Renumber succeeding subparagraphs accordingly.
- 4 Page 6, line 27 and page 7, line 1, strike "IMPACT THAT REDUCING
5 PRIVATE PRISON BEDS" and substitute "ECONOMIC AND OTHER IMPACTS
6 THAT POTENTIAL PRISON CLOSURE".
- 7 Page 7, strike line 2 and substitute "THE WIDER COMMUNITY AND
8 RECOMMENDATIONS ON STRATEGIES TO DIVERSIFY THE LOCAL
9 ECONOMY;".
- 10 Page 7, line 3, strike "STATE-OPERATED" and substitute "STATE AND
11 PRIVATELY OPERATED FACILITIES".
- 12 Page 7, strike lines 6 and 7 and substitute:
13 "(IV) AN ANALYSIS OF PROGRAMS PROVIDED AT STATE AND
14 PRIVATELY OPERATED FACILITIES AND PROGRAM MODIFICATIONS OR
15 EXPANSIONS THAT MAY BE NECESSARY TO ALIGN WITH BEST PRACTICES OR
16 TO KEEP PACE WITH DEMAND;".
- 17 Page 7 of the bill, line 11, after "SAFETY;" add "AND".
- 18 Page 7, strike line 13, and substitute "OBTAIN PRIVATELY OWNED
19 FACILITIES OR UTILIZE UNUSED STATE-OWNED BUILDINGS IN COLORADO.".
- 20 Page 7 of the bill, strike lines 14 through 17 and substitute:
21 "(c) PRIOR TO COMPLETING THE STUDY, THE DEPARTMENT, IN
22 CONJUNCTION WITH THE COUNTY COMMISSIONERS, SHALL PROVIDE NOTICE
23 AND CONDUCT PUBLIC HEARINGS IN THE COUNTIES IN WHICH PRIVATE
24 PRISONS ARE LOCATED TO ALLOW DIRECT PUBLIC TESTIMONY AND INPUT,
25 WHICH THE DEPARTMENT SHALL INCLUDE IN THE FINAL REPORT.".
- 26 Reletter succeeding paragraph accordingly.

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