

By the Committee on Criminal Justice and Senator Brown-Waite

307-1774-00

1                                   A bill to be entitled  
2           An act relating to correctional facilities;  
3           prohibiting specified contracts to house  
4           inmates from another state in correctional  
5           facilities within the state without approval of  
6           the regional planning council or specific  
7           legislative authorization; providing for  
8           submission of proposed contracts to the  
9           regional planning council and the Correctional  
10          Privatization Commission for review and  
11          approval; providing contract restrictions;  
12          providing for approval withdrawn for contracts;  
13          providing contract requirements; providing for  
14          written confirmation of specified compliance  
15          prior to contract approval; requiring private  
16          vendors to enter into a preliminary agreement  
17          with the Correctional Privatization Commission;  
18          providing conditions and requirements for  
19          preliminary agreements; providing an effective  
20          date.

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22   Be It Enacted by the Legislature of the State of Florida:  
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24           Section 1. (1) Notwithstanding any other provision of  
25 law, no state agency or private vendor operating a  
26 correctional facility located in the state shall enter into a  
27 contract with any state, state agency, or private vendor  
28 operating a correctional facility outside the state to house  
29 inmates of correctional facilities from another state unless:  
30           (a) Specific written authorization to enter into such  
31 contract is obtained from the regional planning council

1 established by chapter 186, Florida Statutes, for the real  
2 property upon which the facility is located and such other  
3 entities enumerated below; or

4 (b) Such contract is established by specific  
5 authorization of the Legislature.

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7 In making its determination to approve or disapprove contracts  
8 to house inmates from another state in correctional facilities  
9 within the state, the regional planning council or the  
10 Legislature shall consider the risks which may be posed to the  
11 citizens of Florida as well as the benefits to the local  
12 community in which the institution is located. The  
13 Correctional Privatization Commission is directed to develop  
14 and distribute a listing of specific factors the regional  
15 planning council should consider.

16 (2)(a) Each proposed contract to house out-of-state  
17 inmates shall be submitted for review and approval in  
18 substantially final form to the Correctional Privatization  
19 Commission and the appropriate regional planning council if  
20 approval is sought under paragraph (1)(a), or the Legislature  
21 if approval is sought under paragraph (1)(b). This approval  
22 must be maintained for the length of the contract.

23 (b) All contracts and contract extensions must state:

24 1. The maximum number of inmates to be housed within  
25 the facility.

26 2. The per diem or other compensation to be paid.

27 3. The custody level of and crimes committed by the  
28 inmates to be housed, expressed in terms substantially similar  
29 to the Florida Department of Corrections standards for custody  
30 levels.

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1 Approval for all contracts may be withdrawn by either the  
2 Legislature or the Correctional Privatization Commission upon  
3 a finding that the continued operation of the facility by the  
4 agency or vendor poses a threat to public safety. Threats to  
5 public safety include, but are not limited to: repeated  
6 instances of escape; rioting at the facility which includes  
7 occupation and control of a portion of the facility and the  
8 endangering of the lives of one or more of the vendor's  
9 employees or the general public; rioting which results in the  
10 destruction of buildings outside the perimeter of the  
11 facility; and destruction of a portion of the facility which  
12 results in a perimeter which is not secure and cannot be made  
13 secure again within a reasonable period of time. If approval  
14 pursuant to subsection (2) is withdrawn by the Correctional  
15 Privatization Commission or the Legislature as a result of a  
16 finding of a threat to public safety under this paragraph, the  
17 state, state agency, or private vendor that has entered into  
18 the contract as the party to receive per diem or compensation  
19 shall, within a reasonable period of time, safely remove all  
20 inmates who are the subject of the contract to another  
21 facility that has lawfully agreed to accept the inmates.

22 (c) All contracts between this state, or its agencies  
23 or private vendors operating facilities for the state, and  
24 other states shall expressly prohibit the release from custody  
25 in this state of any inmate convicted of and currently  
26 incarcerated as a result of the commission of a crime in a  
27 state other than Florida.

28 (3) Prior to the approval of any contract pursuant to  
29 paragraph (1)(a), the vendor or agency must receive written  
30 confirmation from the Correctional Privatization Commission  
31 that the following conditions have been satisfied:

1           (a) A written plan approved by the Correctional  
2 Privatization Commission has been developed for the  
3 coordination of law enforcement activities in response to  
4 escapes or other emergency situations. Such plan must require  
5 the reimbursement of all reasonable costs associated with the  
6 apprehension of escapees from custody or a response to other  
7 emergencies, as well as the immediate notification of the  
8 Executive Director of the Correctional Privatization  
9 Commission and local law enforcement agencies in the event of  
10 an escape or other emergency. The plan must include the  
11 written concurrence of the law enforcement agencies designated  
12 to respond to escapes or other emergencies.

13           (b) An agreement has been made, in writing, which is  
14 acceptable to the Correctional Privatization Commission and  
15 the designated law enforcement agencies in form, substance,  
16 and amount; which is effective upon the opening of the  
17 institution to inmates from another state; and which  
18 guarantees payment for all reasonable costs associated with  
19 any escape or emergency plan.

20           (4) Private vendors seeking contract approval pursuant  
21 to paragraph (1)(a) must enter into a preliminary agreement  
22 with the Correctional Privatization Commission. The  
23 preliminary agreement shall only become binding when the  
24 authorization pursuant to paragraph (1)(a) is granted. The  
25 agreement must contain provisions which impose the following  
26 conditions and requirements:

27           (a) The design and construction of the facility must  
28 be approved in writing by the Correctional Privatization  
29 Commission as suitable for the custody classification of the  
30 inmates to be housed in the facility. Information necessary  
31 for a classification determination to be made by the

1 Department of Corrections shall be provided by the vendor  
2 prior to the inmate entering Florida.

3 (b) The private correctional facility must receive  
4 accreditation by the American Correctional Association within  
5 24 months following acceptance of inmates from another state  
6 and must maintain continuous accredited status thereafter.  
7 Failure to obtain or maintain the accreditation required in  
8 this paragraph shall result in termination of the contract.

9 (c) Training requirements, including inservice  
10 training requirements, for employees of private vendors shall  
11 meet or exceed the applicable requirements for similar  
12 employees of the Department of Corrections or the requirements  
13 mandated for accreditation by the American Correctional  
14 Association, whichever are deemed more stringent in the  
15 opinion of the Correctional Privatization Commission.

16 (d) The private vendor shall reimburse the reasonable  
17 costs incurred by the regional planning council in approving  
18 and executing the documents required by this section.

19 (e) Private vendors shall indemnify and hold harmless  
20 the state, including its officials and agents, against any and  
21 all liability resulting from private vendors' operation of  
22 correctional facilities.

23 (f) Private vendors operating correctional facilities  
24 housing inmates from another state shall submit to the  
25 Correctional Privatization Commission fingerprint cards for  
26 all prospective employees for the purpose of obtaining  
27 criminal history background checks by the Department of Law  
28 Enforcement. The Department of Law Enforcement shall provide  
29 to the Correctional Privatization Commission complete Florida  
30 Criminal Information Center and National Criminal Information  
31 Center reports on each employee. The reasonable direct cost

1 associated with this activity shall be the responsibility of  
2 the private vendors.

3 (g) Employees of private vendors operating  
4 correctional facilities housing inmates from another state  
5 shall have the same legal authority to rely on deadly and  
6 nondeadly force as do similar employees of the Department of  
7 Corrections.

8 (h) Any act or failure to act by an inmate from  
9 another state housed in a correctional facility in this state  
10 pursuant to the provisions of this section that constitutes a  
11 criminal act under the laws of this state shall be chargeable  
12 as if committed by an inmate confined in a correctional  
13 institution of this state.

14 Section 2. This act shall take effect upon becoming a  
15 law.

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
18 COMMITTEE SUBSTITUTE FOR  
19 Senate Bill 1292

- 20 - Provides a process by which contracts to house inmates  
21 from other states within Florida's boundaries between  
22 states, state agencies and private vendors shall be  
23 reviewed for approval by either the Legislature or  
24 Regional Planning Councils.
- 25 - Specifies that if contract approval is sought through  
26 the Regional Planning Council, there are additional  
27 requirements including:
- 28 - there must be a plan coordinated with local law  
29 enforcement for emergency situations
  - 30 - there must be an agreement to reimburse local law  
31 enforcement for costs incurred in responding to  
emergencies
- Specifies that if contract approval is sought through  
the Regional Planning Council, there must be a  
preliminary agreement with the Correctional  
Privatization Commission and the vendor, state or state  
agency which becomes binding upon contract approval. The  
CS specifies what provisions should be in the agreement.