

HOUSE BILL No. 1950

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8; IC 11-11-8.

Synopsis: Private correctional facilities. Requires private correctional facilities to comply with operational and construction standards established by the department of correction. Provides that a private correctional facility must reimburse the state and political subdivisions for any expenses incurred to locate, apprehend, and transport a committed person who escapes from a private correctional facility.

Effective: Upon passage.

Crooks, Denbo

January 27, 1999, read first time and referred to Committee on Courts and Criminal Code.

C
O
P
Y



First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

C
O
P
Y

HOUSE BILL No. 1950



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 11-8-1-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 11. "Private correctional facility" means**
4 **a facility:**

- 5 (1) **that is owned or operated by a private individual or**
- 6 **another private entity;**
- 7 (2) **that is located in Indiana; and**
- 8 (3) **in which:**
 - 9 (A) **committed persons are confined under a contract**
 - 10 **entered into under IC 11-8-3-1; or**
 - 11 (B) **persons convicted of a crime or delinquent act under**
 - 12 **the laws of another state, the United States, or another**
 - 13 **country are detained.**

14 SECTION 2. IC 11-8-3-1 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The department may
16 contract with any city, county, state, or federal authority, or with other
17 public or private organizations, for:



1 (1) the custody, care, confinement, or treatment of committed
2 persons; or

3 (2) the provision of other correctional or related services to
4 committed persons.

5 **A contract with a private correctional facility must include a**
6 **requirement that the private correctional facility comply with**
7 **IC 11-11-8-3 and the standards adopted under IC 11-11-8-1.**

8 (b) Before transferring a committed person to the custody, care, or
9 control of an agency or organization under such a contract, the
10 department must approve the receiving facility or program as suitable
11 for the supervision and care of the person. **The department may not**
12 **approve the suitability of a private correctional facility if the**
13 **private correctional facility fails to comply with the standards**
14 **adopted under IC 11-11-8.**

15 (c) The department may contract with individuals for the provision
16 of services to the department.

17 (d) To fund contracts under this section the department may use:

18 (1) its regular budgeted monies; and

19 (2) if applicable, monies deducted from the person's earnings
20 under IC 11-10-7-5 or IC 11-10-8-6.

21 SECTION 3. IC 11-11-8 IS ADDED TO THE INDIANA CODE AS
22 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
23 PASSAGE]:

24 **Chapter 8. Standards, Rules, and Construction of Private**
25 **Correctional Facilities**

26 **Sec. 1. (a) The department shall adopt minimum standards**
27 **under IC 4-22-2 for private correctional facilities concerning:**

28 (1) **general physical and environmental conditions;**

29 (2) **services and programs to be provided to confined persons;**
30 **and**

31 (3) **procedures for the care and control of confined persons**
32 **that are necessary to ensure the health and safety of confined**
33 **persons, the security of the private correctional facility, and**
34 **public safety.**

35 (b) **The standards must be sufficiently flexible to foster the**
36 **development of new and improved practices and to accommodate**
37 **local needs and circumstances. The standards must be consistent**
38 **with the laws of Indiana and the rules of the state department of**
39 **health and the fire prevention and building safety commission.**

40 **Sec. 2. (a) The department shall inspect each private**
41 **correctional facility at least semiannually to determine whether it**
42 **is complying with the standards adopted under section 1 of this**

C
O
P
Y



1 chapter. If the department determines that a private correctional
 2 facility is not complying with the standards, the commissioner shall
 3 give written notice of this determination to the owner of the private
 4 correctional facility. This notice must specify which standards are
 5 not being met and state the commissioner's recommendations
 6 regarding compliance.

7 (b) If:

8 (1) after six (6) months from the date of the written notice the
 9 department determines that the private correctional facility
 10 is not making a good faith effort toward compliance with the
 11 standards specified in the notice; or

12 (2) the department determines that the health and safety of
 13 confined persons, the security of the private correctional
 14 facility, or the public safety is substantially jeopardized;

15 the commissioner may terminate any contract entered into with the
 16 private correctional facility under IC 11-8-3-1 or take any other
 17 action reasonably designed to obtain compliance with the
 18 standards.

19 Sec. 3. A private correctional facility shall reimburse the state
 20 and any political subdivision for the reasonable expenses incurred
 21 by the governmental entity to:

22 (1) locate;

23 (2) apprehend; and

24 (3) return to the private correctional facility or another
 25 facility determined by the department;

26 a confined person who escapes from the private correctional
 27 facility.

28 Sec. 4. A private correctional facility shall provide the
 29 department with reasonable access to the private correctional
 30 facility, the property of the private correctional facility, and the
 31 records maintained for the private correctional facility necessary
 32 to carry out this chapter.

33 Sec. 5. A private correctional facility that does not meet the
 34 standards adopted under section 1 of this chapter may not operate
 35 in Indiana.

36 Sec. 6. The department may file a civil action in Marion County
 37 or in a county where a private correctional facility is located to
 38 enforce this chapter.

39 Sec. 7. A private correctional facility in which persons convicted
 40 of a crime or delinquent act under the laws of the United States or
 41 another country is exempt from this chapter only to the extent that
 42 the Constitution of the United States, a federal law, or a treaty with



C
O
P
Y

1 another country preempts the authority of the state to regulate the
2 private correctional facility.

3 SECTION 4. [EFFECTIVE UPON PASSAGE] Notwithstanding
4 IC 4-22-2, the department of correction shall adopt the initial
5 standards required under IC 11-11-8-1, as added by this act, within
6 sixty (60) days after the effective date of this SECTION, using the
7 procedures applicable to the adoption of emergency rules under
8 IC 4-22-2-37.1. A rule adopted under this SECTION shall be
9 treated as a rule adopted under IC 11-8-3-1, as amended by this
10 act. A rule adopted under this SECTION expires on the earlier of
11 the following:

12 (1) The expiration date stated in the rule.

13 (2) The date that:

14 (A) a permanent rule adopted under IC 4-22-2; or

15 (B) another rule adopted under this SECTION;

16 supersedes the rule.

17 (3) July 1, 2000.

18 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The definitions
19 in IC 11-8-1 apply throughout this SECTION.

20 (b) To the extent possible, IC 11-8-3-1, as amended by this act,
21 and IC 11-11-8, as added by this act, apply to all private
22 correctional facilities in which a person is detained after the
23 effective date of this act. However, IC 11-11-8, as added by this act,
24 shall not be construed in a manner to impair a contract entered
25 into before the effective date of this SECTION.

26 SECTION 6. An emergency is declared for this act.

C
O
P
Y

