

AN ACT

RELATING TO PRIVATELY OPERATED CORRECTIONAL FACILITIES;  
ENACTING THE PRIVATELY OPERATED CORRECTIONAL FACILITIES  
OVERSIGHT ACT; IMPOSING MINIMUM STANDARDS; PROVIDING FOR A  
CLASSIFICATION REVIEW OF OUT-OF-STATE INMATES IN PRIVATELY  
OPERATED CORRECTIONAL FACILITIES; ASSESSING A FEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Privately Operated Correctional Facilities Oversight Act".

Section 2. DEFINITIONS.--As used in the Privately  
Operated Correctional Facilities Oversight Act:

A. "out-of-state inmate" means a person  
incarcerated in a privately operated correctional facility  
within this state who is being incarcerated on behalf of a  
state other than New Mexico or a governmental entity whose  
jurisdiction is outside the state of New Mexico. "Out-of-  
state inmate" does not include a person who is being  
incarcerated on behalf of an Indian tribe or pueblo whose  
lands are located wholly or partially within New Mexico, or  
on behalf of the United States;

B. "privately operated correctional facility"  
means a correctional facility or jail that has all or  
substantially all of its security operations performed by  
persons employed by, or engaged by, a private entity to

perform security functions; and

C. "secretary" means the secretary of corrections or his designee.

**Section 3. INCARCERATION OF OUT-OF-STATE INMATES IN PRIVATELY OPERATED CORRECTIONAL FACILITIES--MINIMUM STANDARDS--SECRETARY'S AUTHORITY TO ADOPT RULES.--**

A. A privately operated correctional facility shall have statutory authority, other than this section, in order to operate or house inmates. In addition to satisfying requirements set forth in a statute other than this section, a privately operated correctional facility shall meet the following minimum standards before housing ten or more out-of-state inmates:

(1) all correctional officers and other persons, employed or engaged by a privately operated correctional facility, whose primary function is to provide security shall, before being assigned to provide the security functions, successfully complete a screening, background check and training course approved by the secretary. The secretary may offer to provide services to the privately operated correctional facility, including qualifying screening, background checks and a training program at the corrections academy at a reasonable cost;

(2) a privately operated correctional facility shall provide immediate oral notice, followed by a

written report, to the secretaries of public safety and corrections, the local county sheriff and the chief of police of the municipality in which the facility is located, or the chief of police of the nearest municipality, or their designees, whenever any of the following events occur at the privately operated correctional facility:

(a) discharge of a firearm other than for training purposes;

(b) discharge of a chemical agent, gas or munitions to control the behavior of two or more inmates;

(c) a hostage situation;

(d) the death of an inmate, staff member, visitor or other person;

(e) a disturbance involving five or more inmates;

(f) an escape or attempted escape; or

(g) the commission of a felony offense;

(3) a privately operated correctional facility shall obtain and maintain current accreditation by the American correctional association regarding standards for prisons or standards for jails. As to any new privately operated correctional facility, the secretary may allow the facility a period of two years from the date the facility becomes operational to obtain accreditation or may require

the facility to apply for and receive provisional accreditation;

(4) a privately operated correctional facility shall prepare an emergency response plan deemed satisfactory by the secretary. A copy of the emergency response plan shall be provided to the secretaries of public safety and corrections, the local county sheriff and the chief of police of the municipality in which the facility is located, or the chief of police of the nearest municipality, or their designees;

(5) a privately operated correctional facility shall ensure that an out-of-state inmate released from the privately operated correctional facility is released to his state of origin; and

(6) the owner or operator of a privately operated correctional facility shall enter into a written contract with the entity that proposes to house ten or more out-of-state inmates in the facility, and the contract shall contain provisions that require compliance with the minimum standards set forth in this subsection.

B. The secretary shall review all contracts and proposed contracts between the owner or operator of a privately operated correctional facility and the entity that proposes to house ten or more out-of-state inmates in the facility. The secretary shall prepare and submit to the

county a written report summarizing his review of each contract.

C. The secretary shall inspect and monitor a privately operated correctional facility that houses or proposes to house ten or more out-of-state inmates to ensure compliance with the minimum standards set forth in this section and to ensure compliance with standards and rules adopted by the secretary pursuant to this section. The secretary shall be provided with the classification records and other relevant records pertaining to the out-of-state inmates who are proposed to be incarcerated at the privately operated correctional facility. The secretary shall have subpoena authority as to all present and former employees and other personnel of the privately operated correctional facility, as well as to all records pertaining to the facility, for the purposes of inspecting and monitoring the facility. Upon completion of an inspection, the secretary shall submit a report with findings and recommendations to the privately operated correctional facility, the board of county commissioners for the county where the facility is located, the county sheriff of the county where the facility is located and the legislative corrections oversight committee. The secretary shall allow the facility a reasonable period of time to address any deficiencies and recommendations set forth in the report. The secretary may

conduct additional inspections to determine compliance with minimum standards, rules and any recommendations. If a privately operated correctional facility that houses or proposes to house out-of-state inmates fails to comply with the standards and rules authorized pursuant to this section, the secretary shall notify the county of the deficiencies and recommend corrective action.

Section 4. CLASSIFICATION REVIEW OF OUT-OF-STATE INMATES IN PRIVATELY OPERATED CORRECTIONAL FACILITIES-- ASSESSING A FEE.--

A. An out-of-state inmate shall not be incarcerated in a privately operated correctional facility in New Mexico unless the privately operated correctional facility is designed to meet or exceed the appropriate classification level for the out-of-state inmate.

B. The operator of a privately operated correctional facility that houses out-of-state inmates shall pay a fee, on a quarterly basis, to the county in which the privately operated correctional facility is located. The amount of the fee shall be a minimum of seventy-five cents (\$0.75) per inmate per day for each out-of-state inmate who is incarcerated in the privately operated correctional facility.

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2001. \_\_\_\_\_

