

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 307

Session of
1985

INTRODUCED BY D. R. WRIGHT, PRATT, IRVIS, F. E. TAYLOR,
VAN HORNE, BATTISTO, HALUSKA, CAPPABIANCA, KUKOVICH, MORRIS,
DeWEESE, TRELLO, OLASZ, STABACK, JOSEPHS, J. L. WRIGHT,
MICOZZIE AND COHEN, FEBRUARY 12, 1985

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MARCH 11, 1986

AN ACT

1 ~~Imposing a moratorium on the operation of private prisons; and~~ <—
2 ~~charging the Pennsylvania Commission on Crime and Delinquency~~
3 ~~with the responsibility to conduct an investigation of~~
4 ~~private prisons. IMPOSING A MORATORIUM ON THE CONSTRUCTION OR~~ <—
5 ~~OPERATION OF PRIVATE CORRECTIONAL FACILITIES.~~
6 ~~REGULATING PRIVATE PRISONS; PROVIDING FOR CONTRACTS WITH,~~ <—
7 ~~LICENSING OF AND EMPLOYEE STATUS FOR PRIVATE PRISONS; AND~~
8 ~~IMPOSING POWERS AND DUTIES ON THE DEPARTMENT OF CORRECTIONS.~~
9 IMPOSING A MORATORIUM ON THE OPERATION OF PRIVATE PRISONS AND <—
10 CREATING A LEGISLATIVE TASK FORCE TO CONDUCT AN INVESTIGATION
11 OF THE FEASIBILITY OF PRIVATE PRISONS.

12 ~~TABLE OF CONTENTS~~ <—

13 ~~SECTION 1. SHORT TITLE.~~

14 ~~SECTION 2. DEFINITIONS.~~

15 ~~SECTION 3. PRIVATE CORRECTIONAL FACILITIES AND SECURITY~~

16 ~~SERVICES.~~

17 ~~SECTION 4. CONTRACTS.~~

18 ~~SECTION 5. LICENSE.~~

19 ~~SECTION 6. MAXIMUM CAPACITY OF FACILITY.~~

20 ~~SECTION 7. POLICE POWER.~~

1 ~~SECTION 8. LABOR DISPUTES.~~
2 ~~SECTION 9. EMERGENCIES.~~
3 ~~SECTION 10. DUTY TO INSPECT; INSPECTIONS.~~
4 ~~SECTION 11. OFFICIAL VISITS.~~
5 ~~SECTION 12. REGULATIONS.~~
6 ~~SECTION 13. VIOLATIONS OF CONTRACT.~~
7 ~~SECTION 14. LICENSE REVOCATION.~~
8 ~~SECTION 15. CRIMINAL PENALTY.~~
9 ~~SECTION 16. ANNUAL REPORTS.~~
10 ~~SECTION 17. OTHER STATUTES.~~
11 ~~SECTION 18. APPLICABILITY.~~
12 ~~SECTION 19. EFFECTIVE DATE.~~

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Moratorium on operation of private prisons.~~ <—

16 ~~(a) Prohibition. On and after the effective date of this~~
17 ~~act, no private prison shall be operated within this~~
18 ~~Commonwealth.~~

19 ~~(b) End of moratorium. The prohibition against the~~
20 ~~operation of private prisons shall remain in effect until the~~
21 ~~investigation required by section 2 has been completed. SIX~~ <—
22 ~~MONTHS FROM THE EFFECTIVE DATE OF THIS ACT.~~

23 ~~(c) Definition. As used in this act the term "private~~
24 ~~prison" means any facility for prisoners that is owned and~~
25 ~~operated by a person other than the United States, the~~
26 ~~Commonwealth, a county or other municipality. The term does not~~
27 ~~include any facility for the detention of juvenile offenders~~
28 ~~operated under contract with the Department of Public Welfare or~~
29 ~~any facility which is not primarily engaged in the business of~~
30 ~~providing incarceration of prisoners through contracts with the~~

~~Federal Government, states or political subdivisions of states.~~

~~Section 2. Investigation by Pennsylvania Commission on Crime
and Delinquency.~~

~~(a) Use of private prisons. The Pennsylvania Commission on
Crime and Delinquency shall conduct a full scale investigation
of the implications and ramifications of the use of private
prisons in this Commonwealth.~~

~~(b) Time for investigation. The Pennsylvania Commission on
Crime and Delinquency shall commence its investigation within 30
days of the effective date of this act and shall issue a report
of its findings to the General Assembly not later than one year
after the effective date of this act.~~

~~Section 3 2. Prohibited contracts.~~

~~Neither the Commonwealth nor any political subdivision shall
contract with a private prison for the incarceration of
prisoners while the moratorium imposed by this act is in effect.~~

~~Section 4 3. Severability.~~

~~The provisions of this act are severable. If any provision of
this act or its application to any person or circumstance is
held invalid, the invalidity shall not affect other provisions
or applications of this act which can be given effect without
the invalid provision or application.~~

~~Section 5 4. Effective date.~~

~~This act shall take effect immediately.~~

~~SECTION 1. MORATORIUM ON CONSTRUCTION OR OPERATION OF PRIVATE
CORRECTIONAL FACILITIES.~~

~~(A) PROHIBITION. ON AND AFTER THE EFFECTIVE DATE OF THIS
ACT, NO PRIVATE CORRECTIONAL FACILITY SHALL BE CONSTRUCTED OR
OPERATED WITHIN THIS COMMONWEALTH. OPERATION OF A PRIVATE
CORRECTIONAL FACILITY SHALL INCLUDE, BUT NOT BE LIMITED TO, THE~~

~~PROVISION OF PRIVATE SECURITY SERVICES BY A PRIVATE CONTRACTOR.~~

~~(B) END OF MORATORIUM. THE PROHIBITION AGAINST THE
CONSTRUCTION OR OPERATION OF PRIVATE CORRECTIONAL FACILITIES
SHALL REMAIN IN EFFECT UNTIL DECEMBER 31, 1986, OR UNTIL THE
GENERAL ASSEMBLY ENACTS LEGISLATION FOR THE LICENSING AND
REGULATION OF PRIVATE CORRECTIONAL FACILITIES AND PRIVATE
CONTRACTORS FOR SECURITY SERVICES, WHICHEVER IS EARLIER.~~

~~(C) DEFINITIONS. AS USED IN THIS ACT THE FOLLOWING WORDS
AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
SUBSECTION:~~

~~"PRIVATE CONTRACTOR." ANY PERSON WHO OWNS OR OPERATES A
PRIVATE CORRECTIONAL FACILITY.~~

~~"PRIVATE CONTRACTOR FOR SECURITY SERVICES." ANY PRIVATE
CONTRACTOR WHO PROVIDES SECURITY SERVICES TO ANY CORRECTIONAL
FACILITY OWNED BY THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION
THEREOF.~~

~~"PRIVATE CORRECTIONAL FACILITY." ANY ADULT CORRECTIONAL
FACILITY OWNED OR OPERATED BY A PRIVATE CONTRACTOR, CONTRACTING
WITH THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF FOR
THE PROVISION OF A FACILITY FOR THE INCARCERATION OF INDIVIDUALS
AND RELATED SERVICES.~~

~~SECTION 2. PROHIBITED CONTRACTS.~~

~~NEITHER THE COMMONWEALTH NOR ANY POLITICAL SUBDIVISION SHALL
CONTRACT WITH A PRIVATE CORRECTIONAL FACILITY FOR THE
INCARCERATION OF PRISONERS WHILE THE MORATORIUM IMPOSED BY THIS
ACT IS IN EFFECT. HOWEVER, NOTHING IN THIS ACT SHALL PREVENT THE
CONTINUED OPERATION OF ANY PRIVATE CORRECTIONAL FACILITY WHICH
IS UNDER CONTRACT AND IN OPERATION PRIOR TO THE EFFECTIVE DATE
OF THIS ACT, NOR SHALL ANY PROVISION OF THIS ACT BE CONSTRUED TO
PROHIBIT A POLITICAL SUBDIVISION FROM UTILIZING THE SERVICES OF~~

1 ~~A PRIVATE CONTRACTOR FOR SECURITY SERVICES AS LONG AS SUCH~~
2 ~~SERVICES WILL BE DIRECTLY SUPERVISED BY EMPLOYEES OF THE~~
3 ~~POLITICAL SUBDIVISION AND THE FACILITY REMAINS UNDER THE~~
4 ~~MANAGEMENT OF EMPLOYEES OF THE POLITICAL SUBDIVISION.~~

5 ~~SECTION 3. EFFECTIVE DATE.~~

6 ~~THIS ACT SHALL TAKE EFFECT IMMEDIATELY.~~

7 SECTION 1. SHORT TITLE.

<—

8 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE PRIVATE
9 PRISON MORATORIUM AND STUDY ACT.

<—

10 SECTION 2. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
12 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "DEPARTMENT." THE DEPARTMENT OF CORRECTIONS OF THE
15 COMMONWEALTH.

16 ~~"DETENTIONER." AN INDIVIDUAL WHO IS INCARCERATED WHILE~~
17 ~~AWAITING A CRIMINAL TRIAL BEFORE A COURT OF COMMON PLEAS FOR A~~
18 ~~VIOLATION OF 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES),~~
19 ~~SUBJECT TO PA. R. CRIM. P. 1100, REGARDING PROMPT TRIAL. THE~~
20 ~~TERM EXCLUDES A JUVENILE; AN INDIVIDUAL CHARGED WITH AN OFFENSE~~
21 ~~EXCLUDED BY THE DEPARTMENT OR OTHERWISE CONSIDERED UNSUITABLE BY~~
22 ~~THE DEPARTMENT, PURSUANT TO DEPARTMENT REGULATIONS UNDER SECTION~~
23 ~~12(1); AND AN INDIVIDUAL INCARCERATED FOR AN OFFENSE WHO IS~~
24 ~~AWAITING TRIAL FOR A SEPARATE OFFENSE.~~

<—

25 ~~"OFFICIAL VISITOR." THE GOVERNOR; SENATORS; MEMBERS OF THE~~
26 ~~HOUSE OF REPRESENTATIVES; THE SECRETARY OF THE COMMONWEALTH; THE~~
27 ~~ATTORNEY GENERAL AND DEPUTIES; THE JUDGES OF THE SUPREME COURT,~~
28 ~~THE SUPERIOR COURT, THE COMMONWEALTH COURT AND THE COURTS OF~~
29 ~~COMMON PLEAS; COUNTY COMMISSIONERS AND SHERIFFS; AND AUTHORIZED~~
30 ~~MEMBERS OF THE PENNSYLVANIA PRISON SOCIETY WHO HAVE BEEN~~

1 ~~DESIGNATED BY THE SOCIETY UNDER ITS CORPORATE SEAL.~~

2 "PRIVATE CONTRACTOR." AN INDIVIDUAL, PARTNERSHIP,
3 CORPORATION OR UNINCORPORATED ASSOCIATION WHICH CONTRACTS WITH
4 THE COMMONWEALTH OR A COUNTY OF THIS COMMONWEALTH TO OWN OR
5 OPERATE, OR TO PROVIDE SECURITY SERVICES TO, A CORRECTIONAL
6 FACILITY.

7 "PRIVATE CONTRACTOR FOR SECURITY SERVICES." A PRIVATE
8 CONTRACTOR WHICH PROVIDES SECURITY SERVICES AND SECURITY
9 PERSONNEL SERVING IN THE CAPACITY OF CORRECTION OFFICERS ~~AS~~ <—
10 ~~DEFINED IN 71 PA.C.S. § 5102 (RELATING TO DEFINITIONS)~~ IN A
11 CORRECTIONAL FACILITY OWNED BY THE COMMONWEALTH OR A COUNTY OF
12 THIS COMMONWEALTH.

13 "PRIVATE CORRECTIONAL FACILITY." AN ADULT CORRECTIONAL
14 FACILITY OWNED OR OPERATED BY A PRIVATE CONTRACTOR CONTRACTING
15 WITH THE COMMONWEALTH OR A COUNTY OF THIS COMMONWEALTH FOR THE
16 PROVISION OF CORRECTIONAL SERVICES. THE TERM EXCLUDES PRIVATE
17 FACILITIES CERTIFIED, LICENSED OR OPERATED BY THE DEPARTMENT OF
18 PUBLIC WELFARE OR THE DEPARTMENT OF HEALTH AND PRE-RELEASE
19 CENTERS UNDER THE ACT OF JULY 16, 1968 (P.L.351, NO.173),
20 REFERRED TO AS THE PRISON PRE-RELEASE PLAN LAW.

21 "SECRETARY." THE SECRETARY OF CORRECTIONS OF THE
22 COMMONWEALTH.

23 ~~SECTION 3. PRIVATE CORRECTIONAL FACILITIES AND SECURITY~~ <—
24 ~~SERVICES.~~

25 ~~(A) GENERAL RULE. A PRIVATE CONTRACTOR MAY OWN OR OPERATE A~~
26 ~~PRIVATE CORRECTIONAL FACILITY FOR DETENTIONERS AND INDIVIDUALS~~
27 ~~WHO ARE SERVING A SENTENCE FOR A MISDEMEANOR OR A SUMMARY~~
28 ~~OFFENSE.~~

29 ~~(B) CONTRACTS BY THE COMMONWEALTH AND COUNTIES. THE~~
30 ~~COMMONWEALTH OR A COUNTY OF THIS COMMONWEALTH MAY ENTER INTO~~

~~CONTRACTS WITH PRIVATE CONTRACTORS IN ACCORDANCE WITH THIS ACT.~~

~~(C) OUT OF STATE CONTRACTS. NO INMATE FROM A STATE OTHER THAN PENNSYLVANIA MAY BE RECEIVED BY A PRIVATE CORRECTIONAL FACILITY IN THIS COMMONWEALTH.~~

~~SECTION 4. CONTRACTS.~~

~~(A) PROVISIONS ENUMERATED. CONTRACTS EXECUTED UNDER THIS ACT SHALL INCLUDE THE FOLLOWING TERMS:~~

~~(1) THE POSTING OF AN ADEQUATE PERFORMANCE BOND BY THE PRIVATE CONTRACTOR.~~

~~(2) PROOF OF ADEQUATE INSURANCE.~~

~~(3) A REQUIREMENT THAT THE PRIVATE CONTRACTOR COMPLY WITH REGULATIONS OF THE DEPARTMENT AND WITH THIS ACT.~~

~~(4) A REQUIREMENT OF CONTRACT APPROVAL BY THE ATTORNEY GENERAL.~~

~~(5) A PLAN DEVELOPED BY THE PRIVATE CONTRACTOR DETAILING ALL ASPECTS OF OPERATIONS IN THE PRIVATE CORRECTIONAL FACILITY OR IN THE PROVISION OF SECURITY SERVICES.~~

~~(6) A REQUIREMENT OF ANNUAL CONTRACT REVIEW BY THE ATTORNEY GENERAL.~~

~~(B) APPROVAL BY ATTORNEY GENERAL. CONTRACT APPROVAL BY THE ATTORNEY GENERAL SHALL BE CONDITIONED UPON THE FOLLOWING:~~

~~(1) THE PRIVATE CONTRACTOR'S ASSUMPTION OF LIABILITY CAUSED BY OR ARISING OUT OF ALL ASPECTS OF THE OWNERSHIP OR OPERATION OF THE PRIVATE CORRECTIONAL FACILITY OR THE PROVISION OF SECURITY SERVICES, INCLUDING, BUT NOT LIMITED TO, ESCAPE OR OTHER EMERGENCY SITUATIONS, LEGAL FEES AND DAMAGE AWARDS, INVOLVING THE PRIVATE CONTRACTOR AND THE CONTRACTING GOVERNMENT BODY.~~

~~(2) LIABILITY INSURANCE COVERING THE PRIVATE CONTRACTOR AND ITS OFFICERS, EMPLOYEES AND AGENTS IN AN AMOUNT~~

~~SUFFICIENT TO COVER LIABILITY CAUSED BY OR ARISING OUT OF THE OWNERSHIP OR OPERATION OF A PRIVATE CORRECTIONAL FACILITY OR THE PROVISION OF SECURITY SERVICES. A COPY OF THE PROPOSED INSURANCE POLICY FOR THE FIRST YEAR SHALL BE SUBMITTED FOR APPROVAL WITH THE CONTRACT, AND NO CONTRACT SHALL BE VALID OR ENFORCEABLE WITHOUT PRIOR APPROVAL.~~

~~(C) DISAPPROVAL BY ATTORNEY GENERAL. DISAPPROVAL OF A CONTRACT MAY BE BASED ON ANY REASONABLE GROUNDS, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:~~

~~(1) INADEQUACY OR INAPPROPRIATENESS OF THE PROPOSED PLAN OF OPERATION.~~

~~(2) FAILURE TO MEET DEPARTMENT REGULATIONS.~~

~~(3) UNSUITABILITY OF THE PROPOSED PRIVATE CONTRACTOR OR ITS EMPLOYEES.~~

~~(4) ABSENCE OF REQUIRED OR DESIRABLE CONTRACT PROVISIONS.~~

~~(5) UNAVAILABILITY OF ADEQUATE FUNDS.~~

~~(6) LACK OF PROOF OF APPROPRIATE INSURANCE.~~

~~(D) TERMINATION. CONTRACTS EXECUTED UNDER THIS ACT SHALL PROVIDE FOR TERMINATION FOR CAUSE BY THE COMMONWEALTH OR A COUNTY UPON 90 DAYS' NOTICE TO THE PRIVATE CONTRACTOR.~~

~~TERMINATION SHALL BE ALLOWED FOR REASONS WHICH INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:~~

~~(1) FAILURE TO BE LICENSED OR TO COMPLY WITH REGULATIONS OF THE DEPARTMENT.~~

~~(2) FAILURE TO MEET OTHER CONTRACT PROVISIONS.~~

~~(3) FAILURE TO MEET THE PROVISIONS OF THIS ACT.~~

~~SECTION 5. LICENSE.~~

~~(A) REQUIREMENT. PRIVATE CONTRACTORS OPERATING WITHIN THIS COMMONWEALTH ARE REQUIRED TO HOLD A VALID LICENSE ISSUED BY THE~~

1 ~~DEPARTMENT.~~

2 ~~(B) ISSUANCE. THE DEPARTMENT SHALL ISSUE A LICENSE TO THE~~
3 ~~PRIVATE CONTRACTOR IF IT DETERMINES THAT THE APPLICANT HAS A~~
4 ~~CONTRACT, APPROVED BY THE ATTORNEY GENERAL, WITH THE~~
5 ~~COMMONWEALTH OR A COUNTY OF THIS COMMONWEALTH AND MEETS THE~~
6 ~~REQUIREMENTS OF THE REGULATIONS OF THE DEPARTMENT AND OF THIS~~
7 ~~ACT.~~

8 ~~(C) TERM AND CONTENT. LICENSES ISSUED BY THE DEPARTMENT~~
9 ~~SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT, SHALL NOT BE~~
10 ~~TRANSFERABLE, SHALL BE ISSUED ONLY FOR THE PRIVATE CORRECTIONAL~~
11 ~~FACILITIES OR CONTRACTED FOR PRIVATE SECURITY SERVICES NAMED IN~~
12 ~~THE APPLICATION AND SHALL SPECIFY THE MAXIMUM NUMBER OF~~
13 ~~INDIVIDUALS WHO MAY BE HOUSED IN THE FACILITY AT ONE TIME. THE~~
14 ~~LICENSE SHALL BE POSTED IN A CONSPICUOUS PLACE ON THE LICENSEE'S~~
15 ~~PREMISES.~~

16 ~~(D) FEES. LICENSES AND INSPECTION FEES SHALL BE ESTABLISHED~~
17 ~~BY THE DEPARTMENT AND SHALL REFLECT THE ACTUAL COST TO THE~~
18 ~~DEPARTMENT OF LICENSING AND INSPECTION.~~

19 ~~(E) TRAINING. THE DEPARTMENT SHALL, BY REGULATION,~~
20 ~~ESTABLISH A PROGRAM OF TRAINING FOR CORRECTIONS OFFICERS~~
21 ~~EMPLOYED BY PRIVATE CONTRACTORS. NO INDIVIDUAL MAY BE EMPLOYED~~
22 ~~AS A CORRECTIONS OFFICER AT A PRIVATE CORRECTIONAL FACILITY~~
23 ~~UNLESS THE DEPARTMENT CERTIFIES THAT THE INDIVIDUAL HAS~~
24 ~~SUCCESSFULLY COMPLETED THE TRAINING PROGRAM. COST OF TRAINING~~
25 ~~SHALL BE PAID BY THE PRIVATE CONTRACTOR.~~

26 ~~SECTION 6. MAXIMUM CAPACITY OF FACILITY.~~

27 ~~A PRIVATE CORRECTIONAL FACILITY MAY NOT EXCEED A CAPACITY OF~~
28 ~~500 BEDS.~~

29 ~~SECTION 7. POLICE POWER.~~

30 ~~SECURITY PERSONNEL EMPLOYED BY PRIVATE CONTRACTORS SHALL BE~~

~~DEEMED PEACE OFFICERS UNDER SECTION 2.1 OF THE ACT OF MAY 16, 1921 (P.L.579, NO.262), ENTITLED, AS AMENDED, "AN ACT PROVIDING FOR THE BETTER MANAGEMENT OF THE JAILS OR COUNTY PRISONS IN THE SEVERAL COUNTIES OF THIS COMMONWEALTH OF THE THIRD, FOURTH, FIFTH CLASSES AND IN CERTAIN COUNTIES OF THE SIXTH, SEVENTH AND EIGHTH CLASSES BY CREATING, IN SUCH COUNTIES, A BOARD TO BE KNOWN BY THE NAME AND STYLE OF INSPECTORS OF THE JAIL OR COUNTY PRISON, WITH AUTHORITY TO APPOINT A WARDEN OF SUCH PRISON, AND BY VESTING IN SAID BOARD, AND THE OFFICERS APPOINTED BY IT, THE SAFE KEEPING, DISCIPLINE, AND EMPLOYMENT OF PRISONERS AND THE GOVERNMENT AND MANAGEMENT OF SAID JAILS OR COUNTY PRISONS."~~

~~SECTION 8. LABOR DISPUTES.~~

~~(A) NOTICE.~~

~~(1) A PRIVATE CONTRACTOR SHALL NOTIFY THE DEPARTMENT 60 DAYS PRIOR TO THE TERMINATION OF A LABOR CONTRACT UNDER THIS ACT.~~

~~(2) A PRIVATE CONTRACTOR SHALL NOTIFY THE DEPARTMENT IMMEDIATELY UPON LEARNING OF A POTENTIAL OR IMPENDING STRIKE.~~

~~(B) ASSISTANCE. IN THE EVENT OF A STRIKE, THE DEPARTMENT SHALL ASSIST A COUNTY TO ASSUME OPERATION OF THE PRIVATE CORRECTIONAL FACILITY AND SHALL USE COMMONWEALTH EMERGENCY RESOURCES NECESSARY TO OPERATE THE FACILITY UNTIL THE STRIKE HAS ENDED. COSTS INCURRED BY THE DEPARTMENT, THE COMMONWEALTH OR A COUNTY SHALL BE REIMBURSED BY THE PRIVATE CONTRACTOR.~~

~~SECTION 9. EMERGENCIES.~~

~~(A) NOTIFICATION OF POLICE. UPON THE OCCURRENCE OF AN ESCAPE OF AN INMATE OR UPON A VIOLENT DISTURBANCE WITHIN A PRIVATE CORRECTIONAL FACILITY OR A FACILITY USING PRIVATE SECURITY SERVICES, THE FACILITY SHALL IMMEDIATELY NOTIFY THE LOCAL POLICE WITHIN THE COUNTY AND THE PENNSYLVANIA STATE~~

1 ~~POLICE.~~

2 ~~(B) AUTHORITY OF THE DEPARTMENT. UPON THE OCCURRENCE OF AN~~
3 ~~EMERGENCY IN A PRIVATE CORRECTIONAL FACILITY OR A FACILITY USING~~
4 ~~PRIVATE SECURITY SERVICES, THE DEPARTMENT SHALL HAVE THE~~
5 ~~AUTHORITY TO ENTER AND CONTROL THE FACILITY UNTIL THE EMERGENCY~~
6 ~~ENDS.~~

7 ~~(C) COSTS. COSTS INCURRED BY THE DEPARTMENT, THE~~
8 ~~COMMONWEALTH OR A COUNTY OF THIS COMMONWEALTH SHALL BE~~
9 ~~REIMBURSED BY THE PRIVATE CONTRACTOR.~~

10 ~~SECTION 10. DUTY TO INSPECT; INSPECTIONS.~~

11 ~~(A) DUTY TO INSPECT. THE DEPARTMENT SHALL ANNUALLY INSPECT~~
12 ~~PRIVATE CORRECTIONAL FACILITIES AND FACILITIES USING PRIVATE~~
13 ~~SECURITY SERVICES TO INSURE COMPLIANCE WITH ITS REGULATIONS. THE~~
14 ~~DEPARTMENT SHALL SUBMIT A WRITTEN REPORT ON THE FINDINGS OF ITS~~
15 ~~INSPECTION TO THE PRIVATE CONTRACTOR WITHIN 60 DAYS OF THE~~
16 ~~INSPECTION. THE PRIVATE CONTRACTOR SHALL BE GIVEN A REASONABLE~~
17 ~~PERIOD OF TIME WITHIN WHICH TO CORRECT DEFICIENCIES OR TO COME~~
18 ~~INTO COMPLIANCE WITH THE APPLICABLE REGULATIONS. IF THE PRIVATE~~
19 ~~CONTRACTOR DOES NOT COME INTO COMPLIANCE WITH THE APPLICABLE~~
20 ~~REGULATIONS, THE DEPARTMENT MAY REVOKE ITS LICENSE AFTER A~~
21 ~~HEARING UNDER 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE AND~~
22 ~~PROCEDURE OF COMMONWEALTH AGENCIES) AND CH. 7 SUBCH. A (RELATING~~
23 ~~TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).~~

24 ~~(B) INSPECTIONS. PERSONNEL OF THE DEPARTMENT OR OTHER~~
25 ~~ADMINISTRATIVE AGENCIES AUTHORIZED BY THE SECRETARY TO INSPECT~~
26 ~~CORRECTIONAL FACILITIES MAY ENTER A PRIVATE CORRECTIONAL~~
27 ~~FACILITY UNANNOUNCED AT ANY TIME TO INVESTIGATE ANY FACET OF THE~~
28 ~~OPERATION OF A PRIVATE CORRECTIONAL FACILITY.~~

29 ~~SECTION 11. OFFICIAL VISITS.~~

30 ~~(A) TIME. OFFICIAL VISITORS MAY VISIT A PRIVATE~~

~~CORRECTIONAL FACILITY OR FACILITY USING PRIVATE SECURITY SERVICES ON ANY DAY, INCLUDING SUNDAYS, BETWEEN 9 A.M. AND 5 P.M. OFFICIAL VISITORS MAY NOT ENTER OR VISIT AT ANY OTHER TIME EXCEPT WITH THE SPECIAL PERMISSION OF THE OFFICIAL IN CHARGE OF THE FACILITY.~~

~~(B) INTERVIEWS. OFFICIAL VISITORS MAY INTERVIEW AN INMATE OR OTHER PERSON PRIVATELY AND ENTER THE CELL OR ROOM WHEREIN THE INMATE OR PERSON IS CONFINED. IF THE PERSON IN CHARGE OF THE PRIVATE CORRECTIONAL FACILITY BELIEVES THAT ENTRY INTO A CELL WOULD BE DANGEROUS TO THE VISITOR OR TO THE DISCIPLINE OF THE FACILITY, THE PERSON MAY CONDUCT THE INMATE OR OTHER PERSON INTO ANOTHER ROOM OR CELL DESIGNATED FOR THAT PURPOSE.~~

~~(C) CRIMINAL PROVISIONS. OFFICIAL VISITORS ARE SUBJECT TO 18 PA.C.S. §§ 5121 (RELATING TO ESCAPE), 5122 (RELATING TO WEAPONS OR IMPLEMENTS FOR ESCAPE) AND 5123 (RELATING TO CONTRABAND).~~

~~(D) DENIAL. IF AN OFFICIAL VISITOR VIOLATES THIS SECTION, OFFICIALS OF THE PRIVATE CORRECTIONAL FACILITY OR FACILITY USING PRIVATE SECURITY SERVICES MAY APPLY TO THE COURT OF COMMON PLEAS OF THE JUDICIAL DISTRICT IN WHICH THE FACILITY IS LOCATED FOR AN ORDER TO SHOW CAUSE WHY THE OFFICIAL VISITOR SHOULD NOT BE DENIED OFFICIAL VISITOR STATUS.~~

~~SECTION 12. REGULATIONS.~~

~~THE DEPARTMENT SHALL, WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION UNDER SECTION 19(A), PROMULGATE REGULATIONS FOR THE PROVISION AND OPERATION OF PRIVATE CORRECTIONAL FACILITIES AND FOR THE PROVISION OF PRIVATE SECURITY SERVICES. THE REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO:~~

~~(1) GUIDELINES AS TO WHO SHALL BE INCARCERATED IN A PRIVATE CORRECTIONAL FACILITY BASED ON THE VIOLENT NATURE OF~~

1 ~~THE OFFENSE AND PREVIOUS VIOLENT BEHAVIOR. THE INTENT OF THIS~~
2 ~~PARAGRAPH IS TO ENSURE THAT ONLY INMATES SUITABLE FOR MINIMUM~~
3 ~~SECURITY FACILITIES ARE HOUSED IN A PRIVATE CORRECTIONAL~~
4 ~~FACILITY.~~

5 ~~(2) MINIMUM STANDARDS FOR THE CARE OF INMATES, THE~~
6 ~~PROTECTION OF INMATES RIGHTS, THE STAFF, THE AVAILABILITY OF~~
7 ~~MENTAL HEALTH SERVICES, THE PHYSICAL STRUCTURE AND OPERATION~~
8 ~~OF PRIVATE CORRECTIONAL FACILITIES WITHIN THIS COMMONWEALTH.~~

9 ~~SECTION 13. VIOLATIONS OF CONTRACT.~~

10 ~~(A) NOTICE. WHENEVER THE DEPARTMENT LEARNS OF A VIOLATION~~
11 ~~OF A CONTRACT BY A PRIVATE CONTRACTOR, IT SHALL IMMEDIATELY GIVE~~
12 ~~WRITTEN NOTICE TO THE COMMONWEALTH OR COUNTY, THE PRIVATE~~
13 ~~CONTRACTOR AND THE ATTORNEY GENERAL. VIOLATION OF THE CONTRACT~~
14 ~~SHALL BE GROUNDS FOR TERMINATION OF THE CONTRACT UNDER SECTION~~
15 ~~4(D)(2).~~

16 ~~(B) COMPLIANCE. NOTICE TO THE PRIVATE CONTRACTOR SHALL~~
17 ~~REQUIRE ACTION TO BRING THE FACILITY INTO COMPLIANCE WITH THE~~
18 ~~RELEVANT CONTRACTUAL PROVISION IN THE TIME PERIOD DETERMINED BY~~
19 ~~THE DEPARTMENT.~~

20 ~~SECTION 14. LICENSE REVOCATION.~~

21 ~~(A) PRACTICE AND PROCEDURE. THE DEPARTMENT SHALL ESTABLISH~~
22 ~~REGULATIONS ESTABLISHING PROCEDURES FOR REVOCATION OF A LICENSE~~
23 ~~UNDER THIS ACT, TO INCLUDE PROVISIONS FOR NOTICE AND HEARING~~
24 ~~UNDER 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE AND~~
25 ~~PROCEDURE OF COMMONWEALTH AGENCIES) AND CH. 7 SUBCH. A (RELATING~~
26 ~~TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).~~

27 ~~(B) GROUNDS. GROUNDS FOR REVOCATION INCLUDE, BUT ARE NOT~~
28 ~~LIMITED TO:~~

29 ~~(1) VIOLATION OF THIS ACT OR REGULATIONS OF THE~~
30 ~~DEPARTMENT.~~

~~(2) FRAUD OR MISREPRESENTATION.~~

~~(3) FAILURE TO MAINTAIN ADEQUATE INSURANCE.~~

~~(4) GROSS INCOMPETENCE OR NEGLIGENCE.~~

~~(5) MORAL TURPITUDE.~~

~~(6) VIOLATION OF OTHER LAWS OF THIS COMMONWEALTH.~~

~~(7) VIOLATION OF THE CIVIL RIGHTS OF AN INDIVIDUAL
INMATE.~~

~~(8) FAILURE TO COMPLY WITH OFFICIAL INSPECTION REPORTS
OF THE DEPARTMENT UNDER SECTION 10(A).~~

~~SECTION 15. CRIMINAL PENALTY.~~

~~A PRIVATE CONTRACTOR WHO OPERATES A PRIVATE CORRECTIONAL
FACILITY OR PROVIDES PRIVATE SECURITY SERVICES IN THIS
COMMONWEALTH WITHOUT A LICENSE UNDER SECTION 5 COMMITS A
MISDEMEANOR OF THE FIRST DEGREE AND SHALL, UPON CONVICTION, BE
SENTENCED TO PAY A FINE OF \$10,000 AND COSTS OF PROSECUTION OR,
IF THE PRIVATE CONTRACTOR FAILS TO PAY THE FINE, TO IMPRISONMENT
FOR NOT MORE THAN ONE YEAR. EACH DAY OF OPERATION OF A PRIVATE
CORRECTIONAL FACILITY OR OF PROVISION OF PRIVATE SECURITY
SERVICES SHALL CONSTITUTE A SEPARATE OFFENSE. IF THE PRIVATE
CONTRACTOR IS A PARTNERSHIP, THE PARTNERS ARE LIABLE UNDER THIS
SECTION. IF THE PRIVATE CONTRACTOR IS A CORPORATION OR
UNINCORPORATED ASSOCIATION, THE CHIEF EXECUTIVE OFFICER IS
LIABLE UNDER THIS SECTION.~~

~~SECTION 16. ANNUAL REPORTS.~~

~~(A) FACILITIES AND CONTRACTORS. A PRIVATE CONTRACTOR SHALL
SUBMIT AN ANNUAL REPORT TO THE COMMONWEALTH OR COUNTY WITH WHICH
IT HAS A CONTRACT.~~

~~(B) DEPARTMENT. THE DEPARTMENT SHALL SUBMIT TO THE GENERAL
ASSEMBLY AN ANNUAL REPORT ON THE STATUS OF PRIVATE CONTRACTORS
IN THIS COMMONWEALTH, INCLUDING PROBLEMS RELATED TO PRIVATE~~

~~CONTRACTORS.~~

~~SECTION 17. OTHER STATUTES.~~

~~PRIVATE CORRECTIONAL FACILITIES ARE DEEMED TO BE CORRECTIONAL INSTITUTIONS FOR PURPOSES OF 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES) AND 42 PA.C.S. (RELATING TO JUDICIARY AND JUDICIAL PROCEDURE) AND ARE DEEMED TO BE PRISONS FOR PURPOSES OF THE ACT OF JULY 11, 1923 (P.L.1044, NO.425), REFERRED TO AS THE PRISONER TRANSFER LAW. OTHER STATUTES RELATING TO PENITENTIARIES, PRISONS, WORKHOUSES, HOUSES OF CORRECTIONS AND INSTITUTIONS FOR PRISONERS APPLY TO PRIVATE CORRECTIONAL FACILITIES TO THE EXTENT NECESSARY TO CARRY OUT THE INTENT AND PROVISIONS OF THIS ACT.~~

~~SECTION 18. APPLICABILITY.~~

~~(A) PROSPECTIVE. NEITHER THE COMMONWEALTH NOR A COUNTY OF THIS COMMONWEALTH MAY CONTRACT WITH A PRIVATE CORRECTIONAL FACILITY FOR THE INCARCERATION OF PRISONERS UNTIL THE EFFECTIVE DATE OF THIS ACT UNDER SECTION 19(B).~~

~~(B) RETROACTIVE. THIS ACT DOES NOT PREVENT THE CONTINUED OPERATION OF A PRIVATE CORRECTIONAL FACILITY WHICH IS IN OPERATION PRIOR TO THE EFFECTIVE DATE OF THIS ACT UNDER SECTION 19(B). THIS ACT SHALL NOT BE CONSTRUED TO PROHIBIT A COUNTY FROM UTILIZING THE SERVICES OF A PRIVATE CONTRACTOR FOR SECURITY SERVICES AS LONG AS THE SERVICES WILL BE DIRECTLY SUPERVISED BY EMPLOYEES OF THE COUNTY AND THE FACILITY REMAINS UNDER THE MANAGEMENT OF EMPLOYEES OF THE COUNTY.~~

~~SECTION 19. EFFECTIVE DATE.~~

~~(A) ADMINISTRATION. SECTIONS 12, 18 AND THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.~~

~~(B) REMAINDER. THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN ONE YEAR.~~

~~SECTION 3. MORATORIUM.~~

<—

1 (A) PROHIBITION.--ON AND AFTER THE EFFECTIVE DATE OF THIS
2 ACT, NO PRIVATE CORRECTIONAL FACILITY SHALL BE OPERATED WITHIN
3 THIS COMMONWEALTH.

4 (B) END OF MORATORIUM.--THE PROHIBITION CONTAINED HEREIN
5 SHALL REMAIN IN EFFECT UNTIL JUNE 30, 1987.

6 (C) EXCEPTION.--NOTHING IN THIS SECTION SHALL APPLY TO
7 PRIVATE CONTRACTORS FOR SECURITY SERVICES AS DEFINED IN THIS
8 ACT.

9 SECTION 4. PRIVATE PRISON TASK FORCE.

10 (A) CREATION OF TASK FORCE.--A LEGISLATIVE TASK FORCE, KNOWN
11 AS THE PRIVATE PRISON TASK FORCE, SHALL BE CREATED WITHIN THE
12 JOINT STATE GOVERNMENT COMMISSION WITHIN 30 DAYS OF THE
13 EFFECTIVE DATE OF THIS ACT. THE PRIVATE PRISON TASK FORCE SHALL
14 BE MADE UP OF THE FOLLOWING:

15 (1) THREE MEMBERS OF THE SENATE APPOINTED BY THE
16 PRESIDENT PRO TEMPORE, TWO OF WHOM SHALL BE MEMBERS OF THE
17 MAJORITY PARTY AND ONE WHO SHALL BE A MEMBER OF THE MINORITY
18 PARTY. THE PRESIDENT PRO TEMPORE SHALL DESIGNATE ONE OF THE
19 MEMBERS AS CHAIRMAN.

20 (2) THREE MEMBERS OF THE HOUSE OF REPRESENTATIVES
21 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, TWO
22 OF WHOM SHALL BE MEMBERS OF THE MAJORITY PARTY AND ONE WHO
23 SHALL BE A MEMBER OF THE MINORITY PARTY. THE SPEAKER SHALL
24 DESIGNATE ONE OF THE MEMBERS AS VICE CHAIRMAN.

25 (B) TASK FORCE REVIEW.--THE PRIVATE PRISON TASK FORCE SHALL
26 STUDY AND MAY CONDUCT PUBLIC HEARINGS ON THE ISSUE OF PRIVATE
27 CORRECTIONAL FACILITIES IN PENNSYLVANIA, INCLUDING, BUT NOT
28 LIMITED TO, THE NEED FOR AND POTENTIAL IMPACT OF PRIVATE
29 PRISONS, STATE REGULATIONS, CONTRACT AND LICENSING PROVISIONS,
30 LIABILITY, SECURITY AND OTHER RELATED ISSUES.

1 (C) TASK FORCE REPORT.--THE PRIVATE PRISON TASK FORCE SHALL
2 SUBMIT A REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE
3 GENERAL ASSEMBLY BY MARCH 31, 1987.

4 (D) ADVISORY COMMITTEE.--THE PRIVATE PRISON TASK FORCE MAY
5 APPOINT AN ADVISORY COMMITTEE TO INCLUDE, BUT NOT BE LIMITED TO:

6 (1) THE ATTORNEY GENERAL, OR HIS DESIGNEE.

7 (2) THE SECRETARY OF CORRECTIONS, OR HIS DESIGNEE.

8 (3) THE SECRETARY OF HEALTH, OR HIS DESIGNEE.

9 (4) A REPRESENTATIVE OF THE PENNSYLVANIA PRISON SOCIETY;
10 OR OTHER PRISONERS' RIGHTS ORGANIZATION.

11 (5) A REPRESENTATIVE OF ORGANIZED LABOR.

12 SECTION 5. CONTINUED OPERATION.

13 NOTHING IN THIS ACT SHALL PREVENT THE CONTINUED OPERATION OF
14 ANY PRIVATE CORRECTIONAL FACILITY WHICH WAS IN OPERATION DURING
15 1985.

16 SECTION 6. EFFECTIVE DATE.

17 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.