

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2638

As Recommended by Senate Committee
on Judiciary

Brief*

HB 2638 amends the community corrections act and would enact the Private Contract Prison Act.

The bill amends the Community Corrections Act as follows:

- ! codifies the current funding practice of limiting community corrections grants to programs that address the “criminogenic needs” of supervised offenders;
- ! requires the Community Corrections Advisory Committee to recommend statewide performance indicators and measurable objectives for community corrections programs;
- ! clarifies that offenders who have either a high risk for reoffending or have been sentenced for low-level drug crimes would be eligible for community corrections placement;
- ! extends the Johnson County community corrections pilot program for two additional years through FY 2006; and
- ! requires community corrections programs to report fiscal information to the Department of Corrections on a quarterly basis. Current law requires the submission of this information within ten days after the end of each calendar quarter.

The bill enacts the Private Contract Prison Act which provides for the authorization, construction, license, and operation of a private prison by a private contractor under the oversight of the Secretary of Corrections. This bill would allow the secretary to authorize, license,

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

monitor, and regulate private contractors who construct, own, or operate one or more private prisons in the state. The secretary may suspend or revoke a license for failure to obtain or maintain accreditation or failure to comply with any requirements of this act. The Department of Corrections is not obligated to house inmates at any private contract prison in the state. The bill would require private prisons in the state to:

- ! seek, obtain, and maintain accreditation by the association responsible for adopting national correctional standards;
- ! abide by operations standards for correctional facilities adopted by the secretary;
- ! be responsible for dental, medical, and psychological services and diet, education, and work programs at least equal to those services and programs provided by the secretary at comparable state correctional activities if Kansas inmates are being housed in the private contract prison; and
- ! incarcerate all inmates assigned to the private contract prison by the department and may not reject inmates assigned to it by the department.

The private contract prison is not authorized, allowed, or delegated authority to:

- ! make a decision that affects the sentence imposed upon or the time served by an inmate;
- ! make recommendations to the Kansas Parole Board with respect to denial or granting of parole or release, except the licensee may submit written reports to the Kansas Parole Board; and
- ! determine inmate eligibility for any from of release from a correctional facility, including any private contract prison.

The state is not required to purchase or lease any private contract prison or assume responsibility for the operation of any private contract prison or to assume costs in the event the private operator becomes unable to meet the requirements of this act. If the state chooses, it

may assume responsibility upon approval by the Legislature.

If the private owner intends to sell, transfer, or otherwise alienate title to a private contract prison, the secretary shall be given first notice and the state shall have the right of first refusal to lease or purchase such private contract prison at fair market value, although the state shall not be required to purchase or lease the private contract prison.

No private contract prison shall be constructed, owned, or operated in any county unless approved on a primary or general election ballot by a majority of qualified voters. If the proposed site for the private contract prison is within one mile of the border of any adjoining county, the adjoining county must also place the question on a primary or general election ballot and be passed by a majority of qualified voters.

The bill also creates in the state treasury the corrections licensing fee fund, for deposit of licensing application fees. The fund would be utilized to pay inspection costs associated with licensing.

The Secretary of Corrections shall give first consideration to Kansas cities and counties when attempting to place any inmate classified as medium or higher custody in facilities other than correctional facilities owned and operated by the Department of Corrections including private contract prisons.

The Senate Committee amended the bill to add provision of Senate Sub. for SB 275.

Background

A conferee representing the Department of Corrections testified in support of the HB 2638. Support was also expressed on behalf of the Kansas Community Corrections.

Sub. for SB 275 was supported by Senator Schmidt. Also testifying in support of the bill were Kansas Attorney General Phil Kline, representatives of The GEO Group, Inc, and the Sedgwick County District Attorney. Testifying neutral on the bill was the Secretary of Corrections. Those testifying in opposition of the bill included representatives of the Harper County Silver Haired Legislature, AfterCare ACTION Initiative II: Ministry to the Formerly Incarcerated,

Criminal Justice and Mercy Ministries, Families Against Mandatory Minimums, and the Kansas Association of Public Employees. Written testimony in opposition was provided by Kansas CURE (Citizens United for Rehabilitation of Errants).

The Senate Committee of the Whole amended Sub. for SB 275 so that if the Secretary of Corrections proposes to place any inmates classified as medium custody or higher classification for confinement in facilities other than correctional facilities owned and operated by the Department of Corrections, or any other state agency, the Secretary of Corrections shall give first consideration to entering into contracts with Kansas cities and counties before attempting to place the inmates for confinement at any private contract prison.

The fiscal note on the original bill prepared by the Division of Budget indicates that any fiscal effect of the bill would be for monitoring and case management personnel. The Department of Corrections would recover those costs from the private prison contractor. If the Department chooses to utilize the private prison for housing a portion of the state's inmate population, additional expenditures from the State General Fund would be required. However, the bill does not require the state to purchase any beds from the contractor.