



## **H.B. 21**

125th General Assembly  
(As Introduced)

**Rep. Willamowski**

---

### **BILL SUMMARY**

- Eliminates the statutory authority for the private operation of state or local correctional institutions or facilities housing Ohio prisoners.
  - Eliminates the statutory provisions requiring the private operation of the initial Department of Rehabilitation and Correction intensive program prison for third or fourth degree felony OVI offenders.
  - Declares an emergency.
- 

### **CONTENT AND OPERATION**

#### **Existing law**

Existing law (1) *requires* the Department of Rehabilitation and Correction (DRC) to contract for the private operation and management of the initial intensive program prison (a prison for prisoners sentenced to a mandatory prison term for a third or fourth degree felony OMVI offense) and (2) *authorizes* DRC to contract for the private operation and management of *any other state correctional institution*. Existing law also allows counties and municipal corporations to contract for the private operation and management of a correctional facility, but only if it houses misdemeanor inmates.

Existing law specifies criteria that these contracts must contain, including provisions limiting the terms of these contracts to two-year periods, prohibiting the housing of out-of-state prisoners in an institution or facility that is subject to the contract, and accreditation that the contractor must obtain and retain. Current law also prohibits the contract from requiring, authorizing, or implying a delegation of the authority or responsibility of the public entity to a contractor certain governmental duties regarding the treatment of the inmates of the facility to be managed. Current law also requires: (1) contractors to maintain insurance, (2)

authorizes certain private correctional officers to carry firearms in the course of their employment, (3) contains certain provisions regarding escaped prisoners, (4) accounts for certain offenses committed in relation to the privately operated facility, and (5) regulates the pay of inmate workers. Before DRC, or a county or municipal corporation, enters into any of these contracts, the contractor involved must convincingly demonstrate that it can operate the correctional institution or facility involved with the inmate capacity required and can provide the services required and *realize at least a 5% savings* over the projected cost to DRC, or the county or municipal corporation, of providing the same services to operate the correctional institution or facility. (R.C. 9.06, 307.93(G), 341.35, 753.03, 753.15(B), 2929.13(G)(2), 5120.03(C), and 5120.033(B) and (C).)

### **Changes proposed by the bill**

#### **Repealed provisions and related prohibition**

The bill repeals the provisions described under "**Existing law**," above, removes other statutory references to these provisions, and adds to some of those other statutory provisions language that is currently in the R.C. sections repealed by the bill but that is used in those other statutory provisions by means of cross reference to the repealed R.C. section that contains that language (R.C. 9.06, 9.07(D)(9) and (F)(3), 9.08(A)(2)(a) and (A)(3), 307.93(A) and (G), 341.01, 341.34(B)(1)(b), (2)(b), and (3), 341.35, 753.03, 753.15(A) and (B), 753.21(B)(1)(b), (2)(b), and (3), 2929.13(G)(2), 5120.03(C), 5120.033(B) and (C), 5120.38, and 5145.32(A)(2)).

The bill further prohibits, on and after its effective date, the state, DRC, any other state agency, a county or municipal corporation, or an affiliation of political subdivisions, from entering into any contract or agreement with any person or entity for the private operation or management of any jail or prison (R.C. 9.09). "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or combination of political subdivisions, and "prison" means a residential facility used for the confinement of convicted felony offenders that is under DRC's control, but not including a violation sanction center (R.C. 9.09, by reference to R.C. 2929.01(U) and (BB), not in the bill).

#### **Declaration by General Assembly**

In the bill, the General Assembly declares that, if prior to the bill's effective date, DRC, any county or municipal corporation, or any affiliation of political subdivisions has entered into a contract for the private operation and management of any state or local correctional institution or facility, then, on and after that effective date, as a matter of public safety and welfare, the *contract is void*,

*invalid, and unenforceable*, and the private operation and management of the institution or facility that is the subject of the contract must be terminated. In the bill, the General Assembly further declares that its purpose in amending, enacting, and repealing the Revised Code sections in the bill is to eliminate all statutory provisions that authorize or require the state, a county or municipal corporation, or an affiliation of political subdivisions to contract for the private operation and management of correctional institutions or facilities for Ohio prisoners. (Section 6 of the bill.)

**Unaffected law**

The bill does not apply to or affect the provisions of current law that (1) allow a county, municipal corporation, combination of counties, combination of municipal corporations, or combination of one or more counties and one or more municipal corporations, under specified conditions, to operate a correctional facility that houses out-of-state prisoners under a contract with an out-of-state jurisdiction or (2) authorize a private contractor to operate and manage a correctional facility for housing out-of-state prisoners, but only if the contractor enters into a contract, complying with certain conditions, with a local public entity for the operation and management of the facility (R.C. 9.07).

---

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-30-03	p. 81

h0021-i-125.doc/kl

