

HOUSE BILL No. 5174

November 10, 2011, Introduced by Rep. Bumstead and referred to the Committee on Appropriations.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 20g and 20i (MCL 791.220g and 791.220i), section 20g as amended by 2000 PA 211 and section 20i as added by 2006 PA 351.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20g. ~~(1) The department may establish a youth~~
2 ~~correctional facility which shall house only prisoners committed to~~
3 ~~the jurisdiction of the department who are 19 years of age or less.~~
4 ~~If the department establishes or contracts with a private vendor~~
5 ~~for the operation of a youth correctional facility, following~~
6 ~~intake processing in a department operated facility, the department~~
7 ~~shall house all male prisoners who are 16 years of age or less at~~

~~1 the youth correctional facility unless the department determines
2 that the prisoner should be housed at a different facility for
3 reasons of security, safety, or because of the prisoner's
4 specialized physical or mental health care needs.~~

~~5 (2) Except as provided in subsection (3), a prisoner who is 16
6 years of age or less and housed at a youth correctional facility
7 shall only be placed in a general population housing unit with
8 prisoners who are 16 years of age or less.~~

~~9 (3) A prisoner who becomes 17 years of age while being housed
10 at a youth correctional facility and who has a satisfactory prison
11 record may remain in a general population housing unit for no more
12 than 1 year with prisoners who are 16 years of age or less.~~

~~13 (4) Except as provided in subsection (3), a prisoner who is 16
14 years of age or less and housed at a youth correctional facility
15 shall not be allowed to be in the proximity of a prisoner who is 17
16 years of age or more without the presence and direct supervision of
17 custody personnel in the immediate vicinity.~~

~~18 (5) The department may establish and operate the youth
19 correctional facility or may contract on behalf of the state with a
20 private vendor for the construction or operation, or both, of the
21 youth correctional facility. If the department contracts with a
22 private vendor to construct, rehabilitate, develop, renovate, or
23 operate any existing or anticipated facility pursuant to this
24 section, the department shall require a written certification from
25 the private vendor regarding all of the following:~~

~~26 (a) If practicable to efficiently and effectively complete the
27 project, the private vendor shall follow a competitive bid process~~

~~1 for the construction, rehabilitation, development, or renovation of
2 the facility, and this process shall be open to all Michigan
3 residents and firms. The private vendor shall not discriminate
4 against any contractor on the basis of its affiliation or
5 nonaffiliation with any collective bargaining organization.~~

~~6 (b) The private vendor shall make a good faith effort to
7 employ, if qualified, Michigan residents at the facility.~~

~~8 (c) The private vendor shall make a good faith effort to
9 employ or contract with Michigan residents and firms to construct,
10 rehabilitate, develop, or renovate the facility.~~

~~11 (6) If the department contracts with a private vendor for the
12 operation of the youth correctional facility, the department shall
13 require by contract that the personnel employed by the private
14 vendor in the operation of the facility be certified as
15 correctional officers to the same extent as would be required if
16 those personnel were employed in a correctional facility operated
17 by the department. The department also shall require by contract
18 that the private vendor meet requirements specified by the
19 department regarding security, protection of the public,
20 inspections by the department, programming, liability and
21 insurance, conditions of confinement, educational services required
22 under subsection (11), and any other issues the department
23 considers necessary for the operation of the youth correctional
24 facility. The department shall also require that the contract
25 include provisions to protect the public's interest if the private
26 vendor defaults on the contract. Before finalizing a contract with
27 a private vendor for the construction or operation of the youth~~

~~1 correctional facility, the department shall submit the proposed
2 contract to the standing committees of the senate and the house of
3 representatives having jurisdiction of corrections issues, the
4 corrections subcommittees of the standing committees on
5 appropriations of the senate and the house of representatives, and,
6 with regard to proposed construction contracts, the joint committee
7 on capital outlay. A contract between the department and a private
8 vendor for the construction or operation of the youth correctional
9 facility shall be contingent upon appropriation of the required
10 funding. If the department contracts with a private vendor under
11 this section, the selection of that private vendor shall be by
12 open, competitive bid.~~

~~13 — (7) The department shall not site a youth correctional
14 facility under this section in a city, village, or township unless
15 the local legislative body of that city, village, or township
16 adopts a resolution approving the location.~~

~~17 — (8) A private vendor operating a youth correctional facility
18 under a contract under this section shall not do any of the
19 following, unless directed to do so by the department policy:~~

~~20 — (a) Calculate inmate release and parole eligibility dates.~~

~~21 — (b) Award good time or disciplinary credits, or impose
22 disciplinary time.~~

~~23 — (c) Approve inmates for extensions of limits of confinement.~~

~~24 — (9) The youth correctional facility shall be open to visits
25 during all business hours, and during nonbusiness hours unless an
26 emergency prevents it, by any elected state senator or state
27 representative.~~

~~1 (10) Once each year, the department shall report on the
2 operation of the facility. Copies of the report shall be submitted
3 to the chairpersons of the house and senate committees responsible
4 for legislation on corrections or judicial issues, and to the clerk
5 of the house of representatives and the secretary of the senate.~~

~~6 (11) Regardless of whether the department itself operates the
7 youth correctional facility or contracts with a private vendor to
8 operate the youth correctional facility, all of the following
9 educational services shall be provided for juvenile prisoners
10 housed at the facility who have not earned a high school diploma or
11 received a general education certificate (GED):~~

~~12 (a) The department or private vendor shall require that a
13 prisoner whose academic achievement level is not sufficient to
14 allow the prisoner to participate effectively in a program leading
15 to the attainment of a GED certificate participate in classes that
16 will prepare him or her to participate effectively in the GED
17 program, and shall provide those classes in the facility.~~

~~18 (b) The department or private vendor shall require that a
19 prisoner who successfully completes classes described in
20 subdivision (a), or whose academic achievement level is otherwise
21 sufficient, participate in classes leading to the attainment of a
22 GED certificate, and shall provide those classes.~~

~~23 (12) Neither the department nor the private vendor shall seek
24 to have the youth correctional facility authorized as a public
25 school academy under the revised school code, 1976 PA 451, MCL
26 380.1 to 380.1852.~~

~~27 (13) A private vendor that operates the youth correctional~~

~~1 facility under a contract with the department shall provide written
2 notice of its intention to discontinue its operation of the
3 facility. This subsection does not authorize or limit liability for
4 a breach or default of contract. If the reason for the
5 discontinuance is that the private vendor intends not to renew the
6 contract, the notice shall be delivered to the director of the
7 department at least 1 year before the contract expiration date. If
8 the discontinuance is for any other reason, the notice shall be
9 delivered to the director of the department at least 6 months
10 before the date on which the private vendor will discontinue its
11 operation of the facility. This subsection does not authorize or
12 limit liability for a breach or default of contract.~~

13 (1) THE DEPARTMENT MAY CONTRACT WITH THE OPERATOR OF THE
14 PRIVATELY OWNED CORRECTIONAL FACILITY IN WEBBER TOWNSHIP, LAKE
15 COUNTY, MICHIGAN, FOR THE HOUSING AND MANAGEMENT OF THE
16 DEPARTMENT'S INMATES AT THAT FACILITY IF THE CONTRACT WILL RESULT
17 IN AN ANNUAL COST SAVINGS OF AT LEAST 5%. IF THE DEPARTMENT
18 CONTRACTS FOR THE HOUSING AND MANAGEMENT OF DEPARTMENT INMATES, THE
19 DEPARTMENT SHALL REQUIRE A WRITTEN CERTIFICATION FROM THE PRIVATE
20 VENDOR THAT THE PRIVATE VENDOR SHALL NOT DISCRIMINATE AGAINST ANY
21 CONTRACTOR ON THE BASIS OF ITS AFFILIATION OR NONAFFILIATION WITH
22 ANY COLLECTIVE BARGAINING ORGANIZATION AND SHALL MAKE A GOOD-FAITH
23 EFFORT TO EMPLOY, IF QUALIFIED, MICHIGAN RESIDENTS AT THE FACILITY.

24 (2) THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE VENDOR
25 SHALL BE FOR AN INITIAL TERM OF 5 YEARS, SUBJECT TO RENEWALS BY
26 MUTUAL AGREEMENT OF 2 YEARS EACH. THE CONTRACT SHALL REQUIRE THAT
27 THE PERSONNEL EMPLOYED BY THE PRIVATE VENDOR IN THE OPERATION OF

1 THE FACILITY BE CERTIFIED AS CORRECTIONAL OFFICERS TO THE SAME
2 EXTENT AS WOULD BE REQUIRED IF THOSE PERSONNEL WERE EMPLOYED IN A
3 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT. THE DEPARTMENT
4 ALSO SHALL REQUIRE BY CONTRACT THAT THE PRIVATE VENDOR MEET
5 REQUIREMENTS SPECIFIED BY THE DEPARTMENT REGARDING SECURITY,
6 PROTECTION OF THE PUBLIC, INSPECTIONS BY THE DEPARTMENT,
7 PROGRAMMING, LIABILITY AND INSURANCE, CONDITIONS OF CONFINEMENT,
8 EDUCATIONAL SERVICES, AND ANY OTHER ISSUES THE DEPARTMENT CONSIDERS
9 NECESSARY FOR THE OPERATION OF THE CORRECTIONAL FACILITY. A
10 CONTRACT BETWEEN THE DEPARTMENT AND A PRIVATE VENDOR FOR THE
11 OPERATION OF THE CORRECTIONAL FACILITY SHALL BE CONTINGENT UPON
12 APPROPRIATION OF THE REQUIRED FUNDING.

13 (3) THE PRIVATE VENDOR OPERATING THE CORRECTIONAL FACILITY
14 UNDER A CONTRACT UNDER THIS SECTION SHALL NOT DO ANY OF THE
15 FOLLOWING, UNLESS DIRECTED TO DO SO BY DEPARTMENT POLICY:

16 (A) CALCULATE INMATE RELEASE AND PAROLE ELIGIBILITY DATES.

17 (B) AWARD GOOD TIME OR DISCIPLINARY CREDITS, OR IMPOSE
18 DISCIPLINARY TIME.

19 (C) APPROVE INMATES FOR EXTENSIONS OF LIMITS OF CONFINEMENT.

20 (4) THE CORRECTIONAL FACILITY SHALL BE OPEN TO VISITS DURING
21 ALL BUSINESS HOURS AND DURING NONBUSINESS HOURS, UNLESS AN
22 EMERGENCY PREVENTS IT, BY ANY ELECTED STATE SENATOR OR STATE
23 REPRESENTATIVE.

24 (5) ONCE EACH YEAR, THE DEPARTMENT SHALL REPORT ON THE
25 OPERATION OF THE FACILITY. COPIES OF THE REPORT SHALL BE SUBMITTED
26 TO THE CHAIRPERSONS OF THE HOUSE AND SENATE COMMITTEES RESPONSIBLE
27 FOR LEGISLATION ON CORRECTIONS OR JUDICIAL ISSUES AND TO THE CLERK

1 OF THE HOUSE OF REPRESENTATIVES AND THE SECRETARY OF THE SENATE.

2 Sec. 20i. (1) If the ~~Michigan youth~~ PRIVATE correctional
3 facility ~~established pursuant to~~ DESCRIBED IN section 20g in Webber
4 township, Lake county, Michigan, is not utilized by the department
5 for housing inmates or detainees under the jurisdiction of the
6 department, the private vendor that operates ~~the Michigan youth~~
7 THAT correctional facility may utilize the facility for housing,
8 custody, and care of detainees or inmates from other local, state,
9 or federal agencies, either by directly contracting with those
10 local, state, or federal agencies or by having 1 or more local,
11 state, or federal agencies enter into an interlocal agreement with
12 Webber township, Lake county, or the county sheriff for Lake
13 county, who in turn may contract with the private vendor for
14 services to be provided under the terms of the interlocal
15 agreement, subject to the requirements of this section. If all
16 contractual factors regarding potential inmates or detainees are
17 equal, the private vendor shall give preference to the admission of
18 inmates or detainees sent from agencies within this state.

19 (2) Any contract under this section for the housing, custody,
20 and care of detainees or inmates from other local, state, or
21 federal agencies shall require all of the following:

22 (a) The private vendor that operates the facility shall do all
23 of the following:

24 (i) Obtain accreditation of the facility by the American
25 correctional association within 24 months after the private vendor
26 commences operations at the facility and maintain that
27 accreditation throughout the term of any contract for the use of

1 the facility.

2 (ii) Operate the facility in compliance with the applicable
3 standards of the American correctional association.

4 (b) The personnel employed by the private vendor in the
5 operation of the facility shall meet the employment and training
6 requirements set forth in the applicable standards of the American
7 correctional association, and also shall meet any higher training
8 and employment standards that may be mandated under a contract
9 between the private vendor and a local, state, or federal agency
10 that sends inmates or detainees to the facility.

11 (c) Any serious incident that occurs at the facility shall be
12 reported immediately to the sheriff of Lake county and the state
13 police.

14 (3) An inmate or detainee housed at the facility shall not
15 participate in work release, a work camp, or another similar
16 program or activity occurring outside the secure perimeter of the
17 facility **WITHOUT THE AUTHORIZATION OF THE DEPARTMENT.**

18 (4) The facility shall allow the presence of on-site monitors
19 from any local, state, or federal agency that sends inmates or
20 detainees to the facility, for the purpose of monitoring the
21 conditions of confinement of those inmates or detainees. Whenever
22 the private vendor submits a written report to a local, state, or
23 federal agency that sends inmates or detainees to the facility, the
24 private vendor shall send copies of the written report to the
25 township supervisor for Webber township, the board of county
26 commissioners for Lake county, the sheriff of Lake county, and the
27 department.

1 (5) Personnel employed at the facility by the private vendor
2 who have met the employment and training requirements set forth in
3 the applicable standards of the American correctional association
4 have full authority to perform their duties and responsibilities
5 under law, including, but not limited to, exercising the use of
6 force in the same manner and to the same extent as would be
7 authorized if those personnel were employed in a correctional
8 facility operated by the department.

9 (6) A contract with a local, state, or federal agency that
10 sends inmates or detainees to the facility shall not require,
11 authorize, or imply a delegation of the authority or responsibility
12 to the private vendor to do any of the following:

13 (a) Develop or implement procedures for calculating inmate
14 release and parole eligibility dates or recommending the granting
15 or denying of parole, although the private vendor may submit
16 written reports that have been prepared in the ordinary course of
17 business.

18 (b) Develop or implement procedures for calculating and
19 awarding earned credits, including good time credits, disciplinary
20 credits, or similar credits affecting the length of an inmate's
21 incarceration, approving the type of work inmates may perform and
22 the wage or earned credits, if any, that may be awarded to inmates
23 engaging in that work, and granting, denying, or revoking earned
24 credits.

25 (7) An inmate or detainee shall not be housed at the facility
26 unless the security classification of the inmate or detainee, as it
27 would be determined by the department if he or she were being

1 housed in a state correctional facility, is level IV or below, and
2 has never previously been above level IV.

3 (8) Inmates and detainees shall be transferred to and from the
4 facility in a secure manner. Any inmate or detainee housed at the
5 facility who was sent from another state, a local agency outside
6 this state, or the federal government shall be returned to the
7 agency that sent the inmate or detainee upon completion of the
8 inmate's or detainee's term of incarceration in the facility and
9 shall not be released from custody within this state.

10 (9) The department of corrections is not responsible for
11 oversight of the facility. This state, or any department or agency
12 of this state, is not civilly liable for damages arising out of the
13 operation of the facility.

14 (10) As used in this section:

15 (a) "Facility" means the ~~former Michigan youth~~ **PRIVATELY OWNED**
16 correctional facility described in subsection (1).

17 (b) "Security classification" means 1 of 6 levels of
18 restrictiveness enforced in housing units at each state
19 correctional facility, as determined by the department, with
20 security level I being the least restrictive and security level VI
21 being the most restrictive.

22 (c) "Serious incident" means a disturbance at the facility
23 involving 5 or more inmates or detainees, a death of an inmate or
24 detainee, a felony or attempted felony committed within the
25 facility, or an escape or attempted escape from the facility.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. ____ or House Bill No. ____ (request no.

1 04364'11) of the 96th Legislature is enacted into law.