

HOUSE BILL No. 5297

November 30, 2017, Introduced by Rep. Howrylak and referred to the Committee on Law and Justice.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 20i (MCL 791.220i), as amended by 2015 PA 49.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20i. (1) If the correctional facility described in
2 section 20g is not utilized by the department for housing inmates
3 or detainees under the terms of section 20g, the private contractor
4 that operates that correctional facility may utilize the facility
5 for housing, custody, and care of detainees or inmates from any of
6 the following agencies, either by directly contracting with those
7 local, state, or federal agencies or by having 1 or more local,
8 state, or federal agencies enter into an interlocal agreement with
9 the township or county in which the facility is located, or the
10 county sheriff for the county in which the facility is located, who
11 in turn may contract with the private contractor for services to be

1 provided under the terms of the interlocal agreement, subject to
2 the requirements of this section:

3 (a) Other local, state, or federal agencies.

4 (b) The department if the detainees or inmates are older than
5 19 years of age and under the jurisdiction of the department.

6 (2) If all contractual factors regarding potential inmates or
7 detainees are equal, the private contractor shall give preference
8 to the admission of inmates or detainees sent from agencies within
9 this state, including the department.

10 (3) Any contract under this section for the housing, custody,
11 and care of detainees or inmates from other local, state, or
12 federal agencies ~~shall~~**MUST** require all of the following:

13 (a) The private contractor that operates the facility shall do
14 all of the following:

15 (i) Obtain accreditation of the facility by the American
16 Correctional Association within 24 months after the private
17 contractor commences operations at the facility and maintain that
18 accreditation throughout the term of any contract for the use of
19 the facility.

20 (ii) Operate the facility in compliance with the applicable
21 standards of the American Correctional Association.

22 (b) The personnel employed by the private contractor in the
23 operation of the facility shall meet the employment and training
24 requirements set forth in the applicable standards of the American
25 Correctional Association, and also shall meet any higher training
26 and employment standards that may be mandated under a contract
27 between the private contractor and a local, state, or federal

1 agency that sends inmates or detainees to the facility.

2 (c) Any serious incident that occurs at the facility ~~shall~~
3 **MUST** be reported immediately to the sheriff of the county and the
4 state police.

5 (4) An inmate or detainee housed at the facility shall not
6 participate in work release, a work camp, or another similar
7 program or activity occurring outside the secure perimeter of the
8 facility without the authorization of the initiating jurisdiction.

9 (5) The facility shall allow the presence of on-site monitors
10 from any local, state, or federal agency that sends inmates or
11 detainees to the facility, for the purpose of monitoring the
12 conditions of confinement of those inmates or detainees. Whenever
13 the private contractor submits a written report to a local, state,
14 or federal agency that sends inmates or detainees to the facility,
15 the private contractor shall send copies of the written report to
16 the township supervisor, the board of county commissioners, the
17 county sheriff, and the department.

18 (6) Personnel employed at the facility by the private
19 contractor who have met the employment and training requirements
20 set forth in the applicable standards of the American Correctional
21 Association have full authority to perform their duties and
22 responsibilities under law, including, but not limited to,
23 exercising the use of force in the same manner and to the same
24 extent as would be authorized if those personnel were employed in a
25 correctional facility operated by the department.

26 (7) A contract with a local, state, or federal agency that
27 sends inmates or detainees to the facility ~~shall~~**MUST** not require,

1 authorize, or imply a delegation of the authority or responsibility
2 to the private contractor to do any of the following:

3 (a) Develop or implement procedures for calculating inmate
4 release and parole eligibility dates or recommending the granting
5 or denying of parole, although the private contractor may submit
6 written reports that have been prepared in the ordinary course of
7 business.

8 (b) Develop or implement procedures for calculating and
9 awarding earned credits, including good time credits, disciplinary
10 credits, or similar credits affecting the length of an inmate's
11 incarceration, approving the type of work inmates may perform and
12 the wage or earned credits, if any, that may be awarded to inmates
13 engaging in that work, and granting, denying, or revoking earned
14 credits.

15 (8) Inmates and detainees ~~shall~~**MUST** be transferred to and
16 from the facility in a secure manner. Any inmate or detainee housed
17 at the facility who was sent from another state, a local agency
18 outside this state, or the federal government ~~shall~~**MUST** be
19 returned to the agency that sent the inmate or detainee upon
20 completion of the inmate's or detainee's term of incarceration in
21 the facility and ~~shall~~**MUST** not be released from custody within
22 this state.

23 (9) The department of corrections is not responsible for
24 oversight of the facility. This state, or any department or agency
25 of this state, is not civilly liable for damages arising out of the
26 operation of the facility.

27 **(10) BEGINNING JULY 1, 2018, AN INMATE OR DETAINEE MUST NOT BE**

1 HOUSED AT THE FACILITY UNLESS THE SECURITY CLASSIFICATION OF THE
2 INMATE OR DETAINEE, AS IT WOULD BE DETERMINED BY THE DEPARTMENT IF
3 HE OR SHE WERE BEING HOUSED IN A STATE CORRECTIONAL FACILITY, IS
4 LEVEL II OR BELOW, AND HAS NEVER PREVIOUSLY BEEN ABOVE A LEVEL II.

5 (11) ~~(10)~~—As used in this section:

6 (a) "Facility" means the former Michigan youth correctional
7 facility described in subsection (1).

8 (B) "SECURITY CLASSIFICATION" MEANS 1 OF 6 LEVELS OF
9 RESTRICTIVENESS ENFORCED IN HOUSING UNITS AT EACH STATE
10 CORRECTIONAL FACILITY, AS DETERMINED BY THE DEPARTMENT, WITH
11 SECURITY LEVEL I BEING THE LEAST RESTRICTIVE AND SECURITY LEVEL VI
12 BEING THE MOST RESTRICTIVE.

13 (C) ~~(b)~~—"Serious incident" means a disturbance at the facility
14 involving 5 or more inmates or detainees, a death of an inmate or
15 detainee, a felony or attempted felony committed within the
16 facility, or an escape or attempted escape from the facility.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.