
Public Safety Committee

HB 1090

Brief Description: Concerning private, for-profit detention facilities.

Sponsors: Representatives Ortiz-Self, Fey, Fitzgibbon, Johnson, J., Ramos, Tharinger, Simmons, Ramel, Senn, Peterson, Gregerson, Ryu, Valdez, Callan, Kloba, Young, Hackney, Chopp, Lovick, Ormsby, Stonier, Frame, Santos, Macri, Orwall, Davis, Pollet and Harris-Talley.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Prohibits persons, businesses, and state and local governments from operating private detention facilities or from utilizing contracts with private detention facilities, with some exceptions.

Hearing Date: 1/21/21

Staff: Kelly Leonard (786-7147).

Background:

Correctional and detention facilities are used to detain persons for a variety of purposes, including pretrial detention and sentencing. Pretrial detention and sentences of up to one year are carried out by locally and publicly operated jail facilities. Sentences of over one year are served in state prison facilities operated and managed by the Department of Corrections (DOC). Juvenile sentences of 30 days or less are served in locally operated juvenile detention facilities, and longer sentences are served in Juvenile Rehabilitation facilities operated and managed by the Department of Children, Youth, and Families.

Private businesses may contract with federal, state, and local governments to provide detention services or ancillary services provided inside detention facilities. However, state law prohibits

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the DOC from utilizing a contract with a for-profit private correctional entity for the transfer or placement of offenders, unless an emergency exception applies, in which case the DOC may transfer prisoners to an out-of-state private correctional entity meeting certain requirements. In the federal context, the federal government may enter into contracts for detention services, which may include detaining persons pursuant to immigration-related proceedings.

Summary of Bill:

"Detention facility" means any facility in which persons are incarcerated or otherwise involuntarily confined for purposes including: prior to trial or sentencing; fulfilling the terms of a sentence imposed by a court; or for other judicial or administrative processes or proceedings.

"Private detention facility" means a detention facility that is operated by a private, nongovernmental, for-profit entity and operating pursuant to a contract or agreement with a federal, state, or local governmental entity.

A person, business, or state or local governmental entity is prohibited from operating a private detention facility, or utilizing a contract with a private detention facility, except where the DOC is authorized to transfer prisoners to an out-of-state private correctional facility under current law. The restrictions also do not apply to certain types of facilities authorized under state law and any similarly applicable federal law, including:

- a facility providing rehabilitative, counseling, treatment, mental health, educational, or medical services to juveniles;
- a facility providing services to a person who has been detained or civilly committed for involuntary mental health treatment or forensic evaluation;
- a facility used for the quarantine or isolation of persons for public health reasons;
- a facility used for work release;
- a facility used for extraordinary medical placement;
- a facility used for residential substance use disorder treatment;
- a facility used for the housing, care, and security of persons held in the custody of U.S. Marshals; and
- a facility owned and operated by a federally recognized tribe and contracting with the government.

A private detention facility that is operating pursuant to a valid contract with a governmental entity that was in effect prior to January 1, 2021, may remain in operation for the duration of that contract, not to include any extensions or modifications made to, or authorized by, that contract.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.