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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 862

02/08/2021 Authored by Hollins, Howard and Winkler
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to corrections; establishing a moratorium on private correctional facilities;
1.3 proposing coding for new law in Minnesota Statutes, chapter 241.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [241.0223] PRIVATE CORRECTIONAL FACILITY MORATORIUM
1.6 ACT.

1.7 Subdivision 1. Short title. This act may be cited as the "Private Correctional Facility
1.8 Moratorium Act."

1.9 Subd. 2. Legislative findings. The legislature finds and declares that the management
1.10 and operation of a correctional facility involves functions that are inherently governmental.
1.11 Detention requires the exercise of coercive police powers over individuals that should not
1.12 generally be delegated to the private sector and is distinguishable from privatization in other
1.13 areas of government. It is further found that issues of liability, accountability, and cost
1.14 warrant a prohibition of the ownership, operation, or management of correctional facilities
1.15 by private contractors in the state to the fullest extent permitted under state law.

1.16 Subd. 3. Definitions. For purposes of this section, "correctional facility" means a building,
1.17 facility, or structure used to detain individuals, not including state secure hospitals, juvenile
1.18 or adult residential treatment facilities, halfway houses, and group homes.

1.19 Subd. 4. Certain agreements and incentives prohibited. The state, a unit of local
1.20 government, a county sheriff, or an agency, officer, employee, or agent thereof, shall not:

1.21 (1) enter into an agreement of any kind for the detention of individuals in a correctional
1.22 facility owned, managed, or operated, in whole or in part, by a private entity;

2.1 (2) pay, reimburse, subsidize, or defray the costs related to the sale, purchase,
2.2 construction, development, ownership, management, or operation of a correctional facility
2.3 that is or will be owned, managed, or operated, in whole or in part, by a private entity;

2.4 (3) receive per diem, per detainee, or any other payment related to the detention of
2.5 individuals in a correctional facility owned, managed, or operated, in whole or in part, by
2.6 a private entity; or

2.7 (4) otherwise give a financial incentive or benefit to a private entity or person in
2.8 connection with the sale, purchase, construction, development, ownership, management,
2.9 or operation of a correctional facility that is or will be owned, managed, or operated, in
2.10 whole or in part, by a private entity.

2.11 Subd. 5. Exemptions. This section does not prohibit the state, a unit of local government,
2.12 or a sheriff that owns, manages, or operates a correctional facility from contracting with a
2.13 private entity or person to provide ancillary services in that facility, such as medical services,
2.14 food services, educational services, or facility repair and maintenance.

2.15 Subd. 6. Applicability. In case of any conflict between this section and any other law,
2.16 this section shall control.

2.17 Subd. 7. Severability. If a provision, word, phrase, or clause of this section or the
2.18 application of this section to a person or circumstance is held invalid, the invalidity shall
2.19 not affect the provisions, words, phrases, clauses, or application of this section that can be
2.20 given effect without the invalid provision, word, phrase, clause, or application, and to this
2.21 end the provisions, words, phrases, and clauses of this section are declared to be severable.