

A bill for an act

relating to corrections; requiring the commissioner of corrections to issue a request for proposals for housing individuals committed to the custody of the commissioner in private prisons; amending Minnesota Statutes 2010, section 241.01, subdivision 3a.

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

Section 1. Minnesota Statutes 2010, section 241.01, subdivision 3a, is amended to read:

Subd. 3a. **Commissioner, powers and duties.** The commissioner of corrections has the following powers and duties:

(a) To accept persons committed to the commissioner by the courts of this state for care, custody, and rehabilitation.

(b) To determine the place of confinement of committed persons in a correctional facility or other facility of the Department of Corrections, or at a private facility, and to prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or outside the facility. Inmates shall not exercise custodial functions or have authority over other inmates. Inmates may serve on the board of directors or hold an executive position subordinate to correctional staff in any corporation, private industry or educational program located on the grounds of, or conducted within, a state correctional facility with written permission from the chief executive officer of the facility.

(c) To administer the money and property of the department.

(d) To administer, maintain, and inspect all state correctional facilities.

(e) To transfer authorized positions and personnel between state correctional facilities as necessary to properly staff facilities and programs.

(f) To utilize state correctional facilities in the manner deemed to be most efficient and beneficial to accomplish the purposes of this section, but not to close the Minnesota

Correctional Facility-Stillwater or the Minnesota Correctional Facility-St. Cloud without legislative approval. The commissioner may place juveniles and adults at the same state minimum security correctional facilities, if there is total separation of and no regular contact between juveniles and adults, except contact incidental to admission, classification, and mental and physical health care.

(g) To organize the department and employ personnel the commissioner deems necessary to discharge the functions of the department, including a chief executive officer for each facility under the commissioner's control who shall serve in the unclassified civil service and may, under the provisions of section 43A.33, be removed only for cause.

(h) To define the duties of these employees and to delegate to them any of the commissioner's powers, duties and responsibilities, subject to the commissioner's control and the conditions the commissioner prescribes.

(i) To annually develop a comprehensive set of goals and objectives designed to clearly establish the priorities of the Department of Corrections. This report shall be submitted to the governor commencing January 1, 1976. The commissioner may establish ad hoc advisory committees.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **ISSUANCE OF REQUEST FOR PROPOSALS; PRISON
PRIVATIZATION.**

Subdivision 1. Request for proposals. The commissioner of administration, in consultation with the commissioner of corrections, must issue a request for proposals within 30 days of the effective date of this act, and must authorize one or more vendors by November 1, 2011, to provide correctional facilities, services, and supervision for persons committed to the commissioner of corrections by the courts of this state. The commissioner may consider proposals from vendors with facilities in Minnesota and from vendors that propose building facilities in Minnesota. The commissioner may consider proposals that involve multiple sites. The Department of Corrections may submit a proposal. A proposal submitted by the department must be given the same consideration as proposals from private vendors.

Subd. 2. Minimum requirements. To qualify for consideration, a vendor must:

(1) agree to house prisoners at a cost to the state that is at least five percent below the Department of Correction's current per diem for the medium security facility that is most costly for the department to operate;

(2) agree, in the event that transferring prisoners to private prisons results in the displacement of state workers, to give priority in hiring to qualified employees of the Department of Corrections; and

(3) meet or exceed the prison standards promulgated by the American Correctional Association.

Subd. 3. **Per diem calculation.** In calculating the per diem for the most costly medium security facility operated by the department, the commissioner must use the per diem calculation required under Minnesota Statutes, section 241.018, subdivision 1, paragraph (b), and add the following expenses, if they are not already included:

(1) all labor expenses, including direct wage and salary costs, training costs, overtime, and supervisory overhead;

(2) total employee fringe and other personnel expenses;

(3) contract management costs;

(4) the imputed tax impact of the facility if the facility were privately operated and required to pay federal, state, and local taxes; and

(5) any other cost particular to incarcerating offenders at the facility.

Subd. 4. **Selection criteria.** In establishing criteria and preferences for vendors, the commissioner of administration must consult with the commissioner of corrections, the executive director of the Sentencing Guidelines Commission, and the commissioner of human services, as appropriate. The commissioner must consider the following factors in issuing the request for proposals:

(1) the level or levels of security for which custodial care and services will be needed;

(2) the type and length of treatment, educational, and other programs and services appropriate to offenders likely to be housed in a private correctional facility;

(3) the transport of offenders to and from any private facilities;

(4) the division between the state and private provider of all costs associated with providing care, custody, and rehabilitation for offenders committed to the commissioner of corrections;

(5) the recidivism rate of the vendor; and

(6) other factors deemed appropriate for consideration by the commissioner of administration, corrections, or human services, or by the executive director of the Sentencing Guidelines Commission.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. DISPLACED CORRECTIONAL EMPLOYEES.

H.F. No. 939, 1st Engrossment - 87th Legislative Session (2011-2012) [H0939-1]

4.1 Unless prohibited by applicable collective bargaining agreements, correctional
4.2 employees who are displaced due to the transfer of state inmates to private facilities shall
4.3 have priority in consideration for vacant positions within the Department of Corrections
4.4 and at secure facilities operated by the Department of Human Services.

4.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.