

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2853/P1dn
MGD:wlj:jf

July 27, 1999

Rep. Walker:

1. Under the draft, costs incurred by the department of corrections (DOC) in overseeing private prisons will be funded by fees from construction and operating licenses. Since DOC will incur costs prior to the issuance of licenses, the draft authorizes it to incur expenses in anticipation of licensing revenue. If you want to fund DOC's start-up costs some other way, please let me know, and I will either redraft the proposal or draft an amendment, whichever is appropriate.

2. The definition of "private prison" does not include juvenile detention or correctional institutions or lockups or other facilities used to confine individuals who have not yet been sentenced, in large part because private prison companies are building prisons only to hold individuals who, as a result of criminal (as opposed to juvenile delinquency) proceedings, have been convicted and sentenced. Is this okay?

3. Do you want to include any limitations on where a private prison may be built? (Oklahoma, for example, prohibits private prisons from being built within a certain distance of a school.)

4. The draft prohibits a private prison from employing a person who has been convicted of a felony in any capacity. Is this okay?

5. The draft requires the private prison -- rather than the sending jurisdiction -- to pay for the costs of health care, education and other services provided by the state or by local government units, largely because the state and local government units will have more leverage over the private prison than another state. Is this okay? (Note that although contracts entered into under the draft require that the sending jurisdiction retain jurisdiction over conditions of confinement cases, Wisconsin courts would also remain open to prisoners. The private prison would be obligated to reimburse state and local government for the costs connected with such cases being heard in Wisconsin courts.)

6. The drafted version of s. 301.373 (10) provides for forfeitures of between \$100 and \$100,000 for violations of the terms of a license or violations of statutes or DOC rules relating to private prisons. Please let me know if you want to change the range of forfeitures.

7. Is there anything you want to include in the draft on the issue of prisoner employment programs at private prisons?

8. Apart from the license fees to be imposed under the nonstatutory provisions, the draft requires DOC to develop licensing fees biennially in conjunction with its budget request. As an alternative, you may want to consider requiring DOC to set its fees more frequently -- perhaps annually by rule. If you would like to modify the provisions of the draft regarding this issue, please let me know.

9. For the purposes of s. 941.237, the draft treats out-of-state correctional officers in the same manner as Wisconsin correctional officers to enable them to transport prisoners from a sending jurisdiction to a private prison. Do you want to include an exception for employes of the private prison or employes of the private prison operator for the same purpose?

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