

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons
State Government - state bldg pr

Extra Copies: rpn, jtk

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN1093,

Topic:

Preconstruction enumeration requirement for prisons

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 06/16/2001	jdyer 06/16/2001					
/1		jdyer 06/17/2001	jfrantze 06/16/2001		lrb docadmin 06/16/2001		
/2			jfrantze 06/17/2001		lrb docadmin 06/17/2001		

FE Sent For:

<END>

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*chm
6/17
12*

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1?	mdsida	11/6/16 jld	7/6/16	7/6/16			

FE Sent For:

<END>

WEIX, Branda

From: Burnett, Douglas
Sent: Friday, June 08, 2001 3:57 PM
To: Dsida, Michael
Cc: Weix, Branda; Keckhaver, John
Subject: RE: Enumeration requirement for prisons

Mike—I have talked to Chuck on this and he would like you to do an amendment for our senate superamendment to clarify that prisons that are built to confine another state's prisoners would also need to be enumerated preconstruction. That was the intent.

CW1093

I AM COPYING JOHN KECKHAVER AND BRANDA WEIX IN OUR CAUCUS ON THIS E-MAIL SO THEY CAN PUT A CAUCUS NUMBER ON THIS SO WE CAN TRACK IT PROPERLY AND GET IT COPIED TO THE LFB.

-----Original Message-----

From: Dsida, Michael
Sent: Wednesday, June 06, 2001 12:45 PM
To: Burnett, Douglas
Subject: Enumeration requirement for prisons

This morning, I looked at the motion that JCF adopted regarding the Stanley prison, and I realized that the amendment from which the motion's pre-construction enumeration requirement was drawn -- Assembly Amendment 2 to Assembly Bill 42 -- may not have accomplished everything that you wanted it to when you requested it. In setting forth the pre-construction enumeration requirement, the amendment defines a "correctional facility" as "a building, structure, or facility or portion thereof to be used to confine persons serving a sentence of imprisonment to the Wisconsin state prisons under ch. 973 or to confine juveniles alleged or found to be delinquent." That definition, however, does not cover prisons that are built to confine another state's prisoners. As a result, the bill might be interpreted to permit the construction, without enumeration, of a prison to be used to confine prisoners from other states.

Arguably, in view of the attorney general's opinion that private prisons may not house out-of-state prisoners in Wisconsin, that interpretation may be difficult to maintain. If the attorney general's opinion is correct, no prison constructed in Wisconsin can "be used" to confine prisoners from other states. Thus, it would be a risky business move for a developer to construct a prison here for housing out-of-state prisoners -- particularly in view of other factors (such as the state's tight labor market). As a result, it seems unlikely that a developer would attempt to construct any prison in Wisconsin without having it enumerated.

Nevertheless, you may want to consider amending AB 42 to specify that the pre-construction enumeration requirement applies to any prison, jail, house of correction, or lockup facility, regardless of who the developer intends to confine there. Among other things, that would guard against the possibility that the attorney general's opinion might not withstand a court challenge. (Although I appear to be in a distinct minority, I believe that, under the federal constitution's commerce clause, the state cannot prohibit private prisoners from being confined here.)

I apologize if the amendment does not reflect your intent. And if it does not, I would be happy to do whatever is necessary to address any problems that this might pose.

Mike Dsida
Legislative Reference Bureau
608/266-9867



LPS - fix request sheet mgd jld

SDC:.....Keckhaver - CN1093, Pre^{the}construction enumeration requirement for prisons

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

✓ substitute amendment

1 At the locations indicated, amend the bill as follows:

2 1. Page ¹⁰⁷¹ 7, line ¹ 7: delete lines ¹ 2 to ⁴ 2 and substitute:

3 text: (b) "Correctional facility" means a prison, jail, house of correction, or lockup
4 facility ~~but does not include~~ ^{or} an institution or facility, or a portion of an institution or
5 facility, that is used solely to confine juveniles alleged or found to be delinquent under
6 ch. 48, 1993 stats., or ch. 938.

7 (END)

but does not include a secured group home, as defined ~~in~~ in s. 938.02(15p)



SDC:.....Keckhaver – CN1093, Preconstruction enumeration requirement
for prisons

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

*rebrief
from hold*

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 1071, line 1: delete lines 1 to 4 and substitute:

3 “(b) “Correctional facility” means ^{or} a prison, jail, house of correction, or lockup
4 facility, ~~an~~ an institution or facility, or a portion of an institution or facility, that is used
5 to confine juveniles alleged or found to be delinquent, but does not include a secured
6 group home, as defined in s. 938.02 (15p).”

7 (END)

move

