

AN ACT

RELATING TO CORRECTIONS; PROVIDING FOR DISCLOSURE OF INFORMATION PERTAINING TO CERTAIN INMATES INCARCERATED IN A COUNTY-OPERATED OR PRIVATELY OPERATED CORRECTIONS FACILITY; REQUIRING THE DEVELOPMENT OF A WRITTEN EMERGENCY RESPONSE PLAN FOR A COUNTY-OPERATED OR PRIVATELY OPERATED CORRECTIONS FACILITY; REQUIRING PROSPECTIVE CORRECTIONAL OFFICERS AT A COUNTY-OPERATED OR PRIVATELY OPERATED CORRECTIONS FACILITY TO PARTICIPATE IN A SIMILAR TRAINING PROGRAM AS THAT REQUIRED FOR STATE CORRECTIONAL OFFICERS; REQUIRING NOTICE WHEN CERTAIN INCIDENTS OCCUR AT A COUNTY-OPERATED OR PRIVATELY OPERATED CORRECTIONS FACILITY; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-1-17 NMSA 1978 (being Laws 1985, Chapter 149, Section 1, as amended) is amended to read:

"33-1-17. PRIVATE CONTRACT.--

A. The corrections department may contract for the operation of any adult female facility or for housing adult female inmates in a private facility with a person or entity in the business of providing correctional or jail services to government entities.

B. The corrections department may contract with a person or entity in the business of providing correctional or

jail services to government entities for:

(1) a correctional facility in Guadalupe county of not less than five hundred fifty and not more than two thousand two hundred beds;

(2) a correctional facility in Lea, Chaves or Santa Fe county of not less than one thousand two hundred and not more than two thousand two hundred beds;

(3) design and construction of a support services building, a laundry and an infirmary at the penitentiary of New Mexico in Santa Fe; or

(4) construction of a public facility to house a special incarceration alternative program for adult male and adult female felony offenders.

C. The authorization in Subsection B of this section for a correctional facility in Guadalupe county and a correctional facility in Lea, Chaves or Santa Fe county is contingent upon construction of both facilities, so that one of the facilities shall not be constructed unless both of the facilities are constructed, as nearly as practicable, simultaneously.

D. The corrections department shall solicit proposals and award any contract under this section in accordance with the provisions of the Procurement Code. The contract shall include such terms and conditions as the corrections department may require after consultation with

the general services department; provided that the terms and conditions shall include provisions:

(1) setting forth comprehensive standards for conditions of incarceration;

(2) that the contractor assumes all liability caused by or arising out of all aspects of the provision or operation of the facility;

(3) for liability insurance or other proof of financial responsibility acceptable to the general services department covering the contractor and its officers, employees and agents in an amount sufficient to cover all liability caused by or arising out of all aspects of the provision or operation of the facility;

(4) that the contractor shall provide the secretary of corrections, the secretary of public safety and the county sheriff for the county in which the corrections facility is located with the following information, which shall be kept confidential, regarding an out-of-state inmate, including a federal inmate, who is incarcerated in the facility for more than one hundred twenty days:

(a) the state or territory of the United States or the country in which the inmate was convicted;

(b) the criminal offense for which the inmate was convicted; and

(c) the original classification level for the inmate;

(5) that the contractor, subject to consultation with and final approval by the secretary of corrections, shall prepare a written emergency response plan for the corrections facility. The contractor shall provide copies of the emergency response plan to the secretary of corrections, the secretary of public safety, the county sheriff for the county in which the corrections facility is located and the governing bodies for the municipality and county in which the corrections facility is located;

(6) that the contractor, as a condition of employment, shall require all his prospective correctional officers to successfully complete, as a minimum, a training program with the same standards as the training program that is required of correctional officers who are employed at state-operated corrections facilities. If the contractor participates in the same program that is required of state correctional officers, the contractor shall reimburse the state for the expense of having his prospective correctional officers participate in the training program;

(7) that the warden of the corrections facility shall immediately notify the secretary of corrections, the secretary of public safety and the county sheriff for the county in which the facility is located when

an inmate escapes from the facility, when a hostage situation occurs at the facility, when a firearm is discharged at the facility or when a disturbance involving five or more inmates occurs at the facility;

(8) for termination for cause upon ninety days' notice to the contractor for failure to meet contract provisions when such failure seriously affects the availability or operation of the facility;

(9) that venue for the enforcement of the contract shall be in the district court for Santa Fe county;

(10) that continuation of the contract is subject to the availability of funds; and

(11) that compliance with the contract shall be monitored by the corrections department and the contract may be terminated for noncompliance.

E. When the contractor begins operation of a facility for which private contractor operation is authorized, his employees performing the functions of correctional officers shall be deemed correctional officers for the purposes of Sections 33-1-10 and 33-1-11 NMSA 1978 but for no other purpose of state law, unless specifically stated.

F. Any contract awarded pursuant to this section may include terms to provide for the renovation of the facility or for the construction of new buildings. Work

performed pursuant to such terms and conditions shall not be considered a capital project as defined in Section 15-3-23.3 NMSA 1978 or a state public works project as defined in Section 13-1-91 NMSA 1978 nor shall it be subject to the requirements of Section 13-1-150 NMSA 1978 or of the Capital Program Act, review by the staff architect of the property control division of the general services department pursuant to Section 15-3-20 NMSA 1978 or regulation by the director of that division pursuant to Section 15-3-11 NMSA 1978.

G. Any contract entered into by the corrections department with a private contractor to operate an existing facility shall include a provision securing the right of all persons employed by that facility prior to the effective date of that contract to be employed by that contractor in any position for which they qualify before that position is offered to any person not employed by that facility prior to that date."

Section 2. A new section of Chapter 33, Article 1 NMSA 1978 is enacted to read:

"COUNTY-OPERATED OR PRIVATELY OPERATED CORRECTIONS FACILITY--NO CONTRACT BETWEEN THE CORRECTIONS DEPARTMENT AND OWNER OF THE FACILITY--REQUIREMENTS.--When a corrections facility in this state is county-operated or privately operated, but the corrections department does not have a contract with the owner of the facility for the incarceration

of state inmates, the warden of the facility shall:

A. provide the secretary of corrections, the secretary of public safety and the county sheriff for the county in which the corrections facility is located with the following information, which shall be kept confidential, regarding an out-of-state inmate, including a federal inmate, who is incarcerated in the facility for more than one hundred twenty days:

(1) the state or territory of the United States or the country in which the inmate was convicted;

(2) the criminal offense for which the inmate was convicted; and

(3) the original classification level for the inmate;

B. prepare a written emergency response plan for the corrections facility. The warden shall provide copies of the emergency response plan to the secretary of corrections, the secretary of public safety, the county sheriff for the county in which the corrections facility is located and the governing bodies for the municipality and county in which the corrections facility is located;

C. as a condition of employment, require all prospective correctional officers to successfully complete, as a minimum, a training program with the same standards as the training program that is required for officers employed

at state-operated facilities; and

D. immediately notify the secretary of corrections, the secretary of public safety and the county sheriff for the county in which the corrections facility is located when an inmate escapes from the facility, when a hostage situation occurs at the facility, when a firearm is discharged at the facility or when a disturbance involving five or more inmates occurs at the facility."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1999. _____