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AB-32 Detention facilities: private, for-profit administration services. (2019-2020)

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Assembly Bill No. 32

CHAPTER 739

An act to add Section 5003.1 to, and to add Title 9.5 (commencing with Section 9500) to Part 3 of, the Penal Code, relating to detention facilities.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 32, Bonta. Detention facilities: private, for-profit administration services.

Existing law establishes the Department of Corrections and Rehabilitation and sets forth its powers and duties regarding the administration of correctional facilities and the care and custody of inmates. Existing law, until January 1, 2020, authorizes the Secretary of the Department of Corrections and Rehabilitation to enter into one or more agreements with private entities to obtain secure housing capacity in the state or in another state, upon terms and conditions deemed necessary and appropriate to the secretary. Existing law, until January 1, 2020, authorizes the secretary to enter into agreements for the transfer of prisoners to, or placement of prisoners in, community correctional centers, and to enter into contracts to provide housing, sustenance, and supervision for inmates placed in community correctional centers.

This bill, on or after January 1, 2020, would prohibit the department from entering into or renewing a contract with a private, for-profit prison to incarcerate state prison inmates, but would not prohibit the department from renewing or extending a contract to house state prison inmates in order to comply with any court-ordered population cap. The bill would also prohibit, after January 1, 2028, a state prison inmate or other person under the jurisdiction of the department from being incarcerated in a private, for-profit prison facility.

This bill would also prohibit, with exceptions, the operation of a private detention facility, as defined, within the state.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5003.1 is added to the Penal Code, to read:

5003.1. (a) On or after January 1, 2020, the department shall not enter into a contract with a private, for-profit prison facility located in or outside of the state to provide housing for state prison inmates.

(b) On or after January 1, 2020, the department shall not renew an existing contract with a private, for-profit prison facility located in or outside of the state to incarcerate state prison inmates.

(c) After January 1, 2028, a state prison inmate or other person under the jurisdiction of the department shall not be incarcerated in a private, for-profit prison facility.

(d) As used in this section, "private, for-profit prison facility" does not include a facility that is privately owned, but is leased and operated by the department.

(e) Notwithstanding subdivisions (a) and (b), the department may renew or extend a contract with a private, for-profit prison facility to provide housing for state prison inmates in order to comply with the requirements of any court-ordered population cap.

SEC. 2. Title 9.5 (commencing with Section 9500) is added to Part 3 of the Penal Code, to read:

TITLE 9.5. PRIVATELY OWNED AND OPERATED DETENTION FACILITIES

9500. As used in this title, the following terms have the following meanings:

(a) "Detention facility" means any facility in which persons are incarcerated or otherwise involuntarily confined for purposes of execution of a punitive sentence imposed by a court or detention pending a trial, hearing, or other judicial or administrative proceeding.

(b) "Private detention facility" means a detention facility that is operated by a private, nongovernmental, for-profit entity, and operating pursuant to a contract or agreement with a governmental entity.

9501. Except as otherwise provided in this title, a person shall not operate a private detention facility within the state.

9502. Section 9501 shall not apply to any of the following:

(a) Any facility providing rehabilitative, counseling, treatment, mental health, educational, or medical services to a juvenile that is under the jurisdiction of the juvenile court pursuant to Part 1 (commencing with Section 100) of Division 2 of the Welfare and Institutions Code.

(b) Any facility providing evaluation or treatment services to a person who has been detained, or is subject to an order of commitment by a court, pursuant to Section 1026, or pursuant to Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(c) Any facility providing educational, vocational, medical, or other ancillary services to an inmate in the custody of, and under the direct supervision of, the Department of Corrections and Rehabilitation or a county sheriff or other law enforcement agency.

(d) A residential care facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(e) Any school facility used for the disciplinary detention of a pupil.

(f) Any facility used for the quarantine or isolation of persons for public health reasons pursuant to Division 105 (commencing with Section 120100) of the Health and Safety Code.

(g) Any facility used for the temporary detention of a person detained or arrested by a merchant, private security guard, or other private person pursuant to Section 490.5 or 837.

9503. Section 9501 does not apply to any privately owned property or facility that is leased and operated by the Department of Corrections and Rehabilitation or a county sheriff or other law enforcement agency.

9505. Section 9501 does not apply to either of the following:

(a) A private detention facility that is operating pursuant to a valid contract with a governmental entity that was in effect before January 1, 2020, for the duration of that contract, not to include any extensions made to or authorized by that contract.

(b) A private detention facility contract renewed pursuant to subdivision (e) of Section 5003.1.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.