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SB-334 Detention facilities: contracts. (2021-2022)

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Senate Bill No. 334

CHAPTER 298

An act to add Section 679.75 to the Insurance Code, and to add Section 9506 to the Penal Code, relating to detention facilities.

[Approved by Governor September 24, 2021. Filed with Secretary of State September 24, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 334, Durazo. Detention facilities: contracts.

Existing law establishes the Board of State and Community Corrections to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system and requires the board to inspect each local detention facility in the state biennially. Existing law requires a privately operated local detention facility responsible for the custody and control of a local prisoner to operate pursuant to a contract with the city, county, or city and county, as appropriate. Existing law requires each contract to include a provision whereby the private agency or entity agrees to operate in compliance with all appropriate state and local building, zoning, health, safety, and fire statutes, ordinances, and regulations, and with specified minimum jail standards established by regulations adopted by the board. Existing law provides that the failure of a privately operated local detention facility to comply with the appropriate health, safety, and fire laws, or with the minimum jail standards adopted by the board may be grounds for the termination of the contract. Under existing law, private detention facilities are generally prohibited, except for those operating pursuant to a valid contract in effect before January 1, 2020, as specified.

This bill would require a private detention facility responsible for the custody and control of a prisoner or civil detainee to operate in compliance with these standards and to maintain specified insurance coverages, including general, automobile, and umbrella liability, and workers' compensation. The bill would authorize an insurer providing insurance to consider whether the private detention facility complies with prescribed standards. The bill would exempt identified detention facilities from specified provisions, and would provide that the bill does not create any additional authority or responsibility for the Board of State and Community Corrections and Department of Corrections and Rehabilitation, as specified. The bill would make provisions of the act severable.

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

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

SECTION 1. Section 679.75 is added to the Insurance Code, to read:

679.75. To reduce underwriting risk and ensure solvency, an insurer providing insurance coverage pertaining to a private detention facility, as defined in subdivision (b) of Section 9500 of the Penal Code, may consider whether the private detention facility complies with all of the requirements of Section 9506 of the Penal Code as part of the insurer's loss control program.

SEC. 2. Section 9506 is added to the Penal Code, to read:

9506. (a) A private detention facility responsible for the custody and control of a prisoner or a civil detainee shall comply with all of the following requirements:

(1) The private detention facility shall comply with all appropriate state and local building, zoning, health, safety, and fire statutes, ordinances, and regulations, and with the minimum jail standards established by regulations adopted by the Board of State and Community Corrections, as set forth in Subchapter 4 (commencing with Section 1000) of Chapter 1 of Division 1 of Title 15 of the California Code of Regulations.

(2) The private detention facility shall select and train its personnel in accordance with selection and training requirements adopted by the Board of State and Community Corrections as set forth in Subchapter 1 (commencing with Section 100) of Chapter 1 of Division 1 of Title 15 of the California Code of Regulations.

(3) The private detention facility shall maintain the following insurance coverages, which shall be obtained from an admitted insurer:

(A) General liability, including directors' and officers' liability, medical professional liability, and liability for civil rights violations, with minimum coverage limits of not less than five million dollars (\$5,000,000) per occurrence and twenty-five million dollars (\$25,000,000) in aggregate. The policy shall require the private detention facility to comply with the requirements of paragraphs (1) and (2) and this paragraph, and to provide the insurer and Insurance Commissioner with an initial compliance report and subsequent annual compliance updates.

(B) Automobile liability, with minimum coverage limits of not less than five million dollars (\$5,000,000) per occurrence. The policy shall require the private detention facility to comply with the requirements of paragraphs (1) and (2) and this paragraph, and to provide the insurer and Insurance Commissioner with an initial compliance report and subsequent annual compliance updates.

(C) Umbrella liability, with minimum coverage limits of not less than twenty-five million dollars (\$25,000,000) per occurrence and twenty-five million dollars (\$25,000,000) in aggregate. The policy shall require the private detention facility to comply with the requirements of paragraphs (1) and (2) and this paragraph, and to provide the insurer and Insurance Commissioner with an initial compliance report and subsequent annual compliance updates.

(D) Workers' compensation as required by law. Notwithstanding subdivision (b) of Section 3700 of the Labor Code, self-insurance does not satisfy this requirement. The policy shall require the private detention facility to comply with the requirements of paragraphs (1) and (2) and this paragraph, and to provide the insurer and Insurance Commissioner with an initial compliance report and subsequent annual compliance updates.

(b) (1) This section shall not apply to facilities identified in Section 9502.

(2) Notwithstanding paragraph (1), this section shall apply to a private detention facility that provides vocational, medical, or other ancillary services to an inmate, and wherein inmates are regularly confined for time periods greater than 10 consecutive hours.

(c) This section shall not create any additional authority or responsibility on the part of the Board of State and Community Corrections or Department of Corrections and Rehabilitation. The Board of State and Community Corrections and Department of Corrections and Rehabilitation shall neither be required, nor are authorized to, expend any funds, or incur any expenses as a result of this section.

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.