

SENATE BILL No. 242

By Committee on Ways and Means

2-9

9 AN ACT concerning the placement of inmates; prohibiting contracts
10 with private contract prisons outside of Kansas; amending K.S.A. 2004
11 Supp. 75-5206, 75-5210 and 75-52,129 and repealing the existing
12 sections.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) On and after February 1, 2005, the state of Kan-
16 sas, or any officer or employee of the state, shall not enter into any con-
17 tract for the acquisition or lease of space for the placement of inmates
18 who are in the custody of the secretary of corrections with any private
19 contract prison located outside the state of Kansas.

20 (b) Within 10 days following the effective date of this act, the sec-
21 retary of corrections shall return to the state of Kansas any inmate who
22 was placed in a private contract prison located outside the state of Kansas.

23 (c) On and after July 1, 2005, no state moneys shall be expended to
24 acquire or lease space for the placement of inmates who are in the custody
25 of the secretary of corrections with any private contract prison located
26 outside the state of Kansas.

27 (d) Any contract entered into in violation of this section is null and
28 void.

29 (e) Prior to the effective date of this act, any person who has entered
30 into a contract with the state in violation of this section shall be entitled
31 to payment for services rendered pursuant to the contract.

32 (f) As used in this section, "private contract prison" means a correc-
33 tional facility located outside the state of Kansas that is not owned by
34 another state or any subdivision thereof or by the federal government or
35 any subdivision thereof.

36 Sec. 2. K.S.A. 2004 Supp. 75-5206 is hereby amended to read as
37 follows: 75-5206. (a) Except as provided in subsection (c) or (d), to carry
38 out the purposes of this act, the secretary shall have authority to order
39 the housing and confinement of any person sentenced to the secretary's
40 custody to any institution or facility herein placed under the secretary's
41 supervision and management or to any contract facility, *subject to the*
42 *provisions of section 1, and amendments thereto*, including a conservation
43 camp.

1 (b) All institutions of the department of corrections shall be institu-
2 tions for the incarceration of felons sentenced to the custody of the sec-
3 retary of corrections. The secretary may enter into interagency agree-
4 ments authorizing the use of department of corrections' institutions for
5 the temporary housing of pretrial detainees, misdemeanor offenders and
6 other persons confined in local detention facilities or jails when the local
7 facility cannot be used to house those persons due to a natural disaster
8 or other emergency. Authorization shall not be given for the temporary
9 housing of juveniles under 16 years of age.

10 (c) No person under 16 years of age sentenced to the secretary's
11 custody shall be placed in the Lansing correctional facility or the Hutch-
12 inson correctional facility.

13 (d) The secretary shall have the authority to order the placement of
14 a juvenile, as described in K.S.A. 38-16,111, and amendments thereto, in
15 a juvenile correctional facility. Such juvenile shall be allowed to be in a
16 juvenile correctional facility only until such juvenile reaches the age of 23
17 years.

18 Sec. 3. K.S.A. 2004 Supp. 75-5210 is hereby amended to read as
19 follows: 75-5210. (a) Persons committed to the institutional care of the
20 secretary of corrections shall be dealt with humanely, with efforts directed
21 to their rehabilitation and return to the community as safely and promptly
22 as practicable. For these purposes, the secretary shall establish programs
23 of classification and diagnosis, education, casework, mental health, coun-
24 seling and psychotherapy, chemical dependency counseling and treat-
25 ment, sexual offender counseling, prerelease programs which emphasize
26 re-entry skills, adjustment counseling and job placement, vocational train-
27 ing and guidance, work, library, physical education and other rehabilita-
28 tion and recreation services; the secretary may establish facilities for re-
29 ligious worship; and the secretary shall institute procedures for the study
30 and classification of inmates. The secretary shall maintain a comprehen-
31 sive record of the behavior of each inmate reflecting accomplishments
32 and progress toward rehabilitation as well as charges of infractions of rules
33 and regulations, punishments imposed and medical inspections made.

34 (b) Programs of work, education or training shall include a system of
35 promotional rewards entitling inmates to progressive transfer from high
36 security status to a lesser security status. The secretary shall have authority
37 at any time to transfer an inmate from one level of status to another level
38 of status. Inmates may apply to the secretary for such status privileges.
39 The secretary shall adopt a custody classification manual establishing stan-
40 dards relating to the transfer of an inmate from one status to another,
41 and in developing such standards the secretary shall take into consider-
42 ation progress made by the inmate toward attaining the educational, vo-
43 cational and behavioral goals set by the secretary for the individual in-

1 mate. In order to facilitate the reintegration into the community of some
2 inmates who are scheduled for release within the next 90 days, there shall
3 be a presumption of minimum security status for those offenders who
4 have been returned to prison for violating conditions of their postrelease
5 supervision not involving a new criminal conviction and whose last facility
6 security custody status was not either special management or maximum.
7 This presumption shall be applied to the initial security custody status
8 assigned to the offender upon readmission into a correctional facility un-
9 less the security custody status is increased pursuant to policies adopted
10 by the secretary. The security custody status designated by the depart-
11 ment shall not be subject to judicial review.

12 (c) The secretary, with the cooperation of the department of health
13 and environment, shall adopt rules and regulations establishing and pre-
14 scribing standards for health, medical and dental services for each insti-
15 tution, including preventive, diagnostic and therapeutic measures on both
16 an outpatient and a hospital basis, for all types of patients. An inmate may
17 be taken, when necessary, to a medical facility outside the institution.

18 (d) Under rules and regulations adopted by the secretary, directors
19 of institutions may authorize visits, correspondence and communication,
20 under reasonable conditions, between inmates and appropriate friends,
21 relatives and others.

22 (e) The secretary shall adopt rules and regulations under which in-
23 mates, as part of a program anticipating their release from minimum
24 security status, may be granted temporary furloughs from a correctional
25 institution or contract facility to visit their families or to be interviewed
26 by prospective employers.

27 (f) The secretary shall adopt rules and regulations for the mainte-
28 nance of good order and discipline in the correctional institutions, in-
29 cluding procedures for dealing with violations. Disciplinary rules and reg-
30 ulations may provide a system of punishment including segregation,
31 forfeitures of good time earned, fines, extra work, loss of privileges, re-
32 strictions and payment of restitution.

33 The secretary and any persons designated by rules and regulations of
34 the secretary may administer oaths for the purpose of conducting inves-
35 tigations and disciplinary proceedings pursuant to rules and regulations
36 adopted by the secretary under this subsection and under K.S.A. 75-5251
37 and amendments thereto. For this purpose, the secretary shall adopt rules
38 and regulations designating those persons who may administer oaths in
39 such investigations and proceedings and the form and manner of admin-
40 istration of the oaths.

41 (g) A copy of the rules and regulations adopted pursuant to subsec-
42 tion (f) shall be provided to each inmate. Other rules and regulations of
43 the secretary which are required to be published pursuant to K.S.A. 77-

1 415 through 77-437, and amendments thereto, shall be made available to
2 inmates by placing a copy in the inmate library at the institution or by
3 some other means providing reasonable accessibility to inmates.

4 (h) Any inmate participating in work and educational release pro-
5 grams under the provisions of K.S.A. 75-5267 and amendments thereto
6 shall continue to be in the legal custody of the secretary of corrections,
7 notwithstanding the inmate's absence from a correctional institution by
8 reason of employment, education or for any other purpose related to such
9 work and educational release programs, and any employer or educator of
10 that person shall be considered the representative or agent for the
11 secretary.

12 (i) The secretary shall establish administrative and fiscal procedures
13 to permit the use of regional or community institutions, local govern-
14 mental or private facilities or halfway houses for the placement of inmates
15 released for the purposes of this act and for the work and educational
16 release programs under K.S.A. 75-5267 and amendments thereto.

17 (j) The secretary may establish correctional work facilities and select
18 inmates to be assigned to such facilities.

19 (k) The secretary may acquire, in the name of the state, by lease,
20 purchase or contract additional facilities as may be needed for the housing
21 of persons in the secretary's custody, *subject to the provisions of section*
22 *1, and amendments thereto.*

23 (l) The secretary is hereby authorized to use any of the inmates as-
24 signed to the secretary's custody in the construction and repair of build-
25 ings or property on state owned or leased grounds.

26 (m) For the purposes of establishing and carrying out the programs
27 provided for by subsection (a) and by K.S.A. 75-5267 and amendments
28 thereto, the secretary may contract with qualified individuals, partner-
29 ships, corporations or organizations; with agencies of the state; or with
30 the United States or any political subdivision of the state, or any agency
31 thereof.

32 Sec. 4. K.S.A. 2004 Supp. 75-52,129 is hereby amended to read as
33 follows: 75-52,129. (a) The secretary of corrections is hereby authorized
34 to negotiate and enter into contracts with Kansas cities and counties for
35 the placement of inmates, who are classified as medium custody or any
36 higher custody or security classification, in facilities owned and operated
37 by the cities and counties. ~~If the secretary of corrections proposes to place~~
38 ~~any inmates classified as medium custody or any higher custody classifi-~~
39 ~~cation for confinement in facilities other than correctional or other insti-~~
40 ~~tutions or facilities owned and operated by the department of corrections~~
41 ~~or any other state agency, the secretary of corrections shall give first con-~~
42 ~~sideration to entering into contracts with Kansas cities and counties under~~
43 ~~this section before attempting to place any such inmate for confinement~~

1 ~~at any location outside the state of Kansas if the facilities to be provided~~
2 ~~under such contracts are substantially equal to facilities at locations out-~~
3 ~~side the state of Kansas and if arrangements can be made in a timely~~
4 ~~manner.~~ Except as provided in subsection (b), the provisions of this sec-
5 tion and any contract or preliminary letter of commitment entered into
6 pursuant to this section shall not apply to any minimum custody or com-
7 munity custody status inmates, or any other custody or security classifi-
8 cation lower than medium custody, or to any inmate who may be placed
9 in a work release or prerelease program, center or facility by the secretary
10 of corrections, who is eligible for parole or who is placed pursuant to the
11 interstate corrections compact. Contracts entered into pursuant to this
12 section shall not be subject to competitive bid requirements under K.S.A.
13 75-3739 and amendments thereto.

14 (b) The secretary shall not enter into any contract as provided in
15 subsection (a) with any city or county of this state for the placement of
16 inmates that does not provide that such city or county shall provide and
17 maintain appropriate and recognized standards of safety, health and
18 security.

19 New Sec. 5. If any clause, paragraph, subsection or section of this
20 act shall be held invalid or unconstitutional it shall be conclusively pre-
21 sumed that the legislature would have enacted the remainder of this act
22 without such invalid or unconstitutional clause, paragraph, subsection or
23 section.

24 Sec. 6. K.S.A. 2004 Supp. 75-5206, 75-5210 and 75-52,129 are
25 hereby repealed.

26 Sec. 7. This act shall take effect and be in force from and after its
27 publication in the Kansas register.