
By: **Delegate Bissett**

Introduced and read first time: January 22, 1998

Assigned to: Judiciary and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Public Safety and Correctional Services - Private Women's**
3 **Correctional Facility**

4 FOR the purpose of authorizing the Department of Public Safety and Correctional
5 Services under certain conditions to enter into a contract with a private entity to
6 construct, lease, acquire, improve, operate, maintain, purchase, or manage a
7 women's correctional facility or to supervise the inmates in the women's
8 correctional facility; requiring the Department to determine, with the approval
9 of the Board of Public Works, certain features of the women's correctional
10 facility; allowing the individuals to be incarcerated in correctional facilities to be
11 female individuals who are convicted and sentenced to terms of imprisonment in
12 State or local correctional facilities or who are held pretrial in State or local
13 correctional facilities; providing for the length of certain contracts and leases;
14 requiring that a women's correctional facility comply with certain standards and
15 that employees of a women's correctional facility receive a certain level of
16 training; requiring that the Department employ a monitor to check all aspects of
17 the private contractor's performance; requiring that the contractor provide an
18 adequate plan of insurance; authorizing the Department to take certain actions
19 if a breach of contract occurs; prohibiting a contract to include certain
20 provisions; requiring the Department to adopt regulations; defining certain
21 terms; and generally relating to the authorization for a contract between the
22 Department of Public Safety and Correctional Services and a private entity for a
23 correctional facility for women in the State.

24 BY adding to
25 Article 41 - Governor - Executive and Administrative Departments
26 Section 4-104.3
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 1997 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

Article 41 - Governor - Executive and Administrative Departments

2 4-104.3.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "WOMEN'S CORRECTIONAL FACILITY" MEANS A PRIVATELY
6 OPERATED CORRECTIONAL FACILITY FOR WOMEN.

7 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND
8 CORRECTIONAL SERVICES.

9 (B) AS PROVIDED IN THIS SECTION, THE DEPARTMENT MAY ENTER INTO A
10 CONTRACT WITH A PRIVATE ENTITY TO:

11 (1) CONSTRUCT, LEASE AS LESSOR OR LESSEE, ACQUIRE, IMPROVE,
12 OPERATE, MAINTAIN, PURCHASE, OR MANAGE A WOMEN'S CORRECTIONAL FACILITY;
13 OR

14 (2) SUPERVISE THE INMATES IN A WOMEN'S CORRECTIONAL FACILITY.

15 (C) (1) THE DEPARTMENT MAY ENTER INTO A CONTRACT FOR A WOMEN'S
16 CORRECTIONAL FACILITY IF THE DEPARTMENT DETERMINES THAT THE CONTRACT
17 OFFERS DEMONSTRABLE BENEFITS TO THE DEPARTMENT AND AT LEAST THE SAME
18 QUALITY OF SERVICES THAT THE DEPARTMENT PROVIDES INMATES.

19 (2) THE INDIVIDUALS TO BE INCARCERATED IN A WOMEN'S
20 CORRECTIONAL FACILITY SHALL BE FEMALE INDIVIDUALS WHO:

21 (I) ARE CONVICTED AND SENTENCED TO A TERM OF
22 IMPRISONMENT IN A STATE CORRECTIONAL FACILITY OR A LOCAL CORRECTIONAL
23 FACILITY; OR

24 (II) ARE HELD PRETRIAL IN A STATE CORRECTIONAL FACILITY OR
25 LOCAL CORRECTIONAL FACILITY.

26 (3) WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE
27 DEPARTMENT SHALL DETERMINE THE SITE, NUMBER OF BEDS, AND
28 CLASSIFICATIONS OF INMATES TO BE HOUSED IN A WOMEN'S CORRECTIONAL
29 FACILITY.

30 (D) (1) THE INITIAL CONTRACT FOR THE OPERATION OF A WOMEN'S
31 CORRECTIONAL FACILITY MAY BE FOR NOT MORE THAN 7 YEARS WITH AN OPTION TO
32 RENEW EVERY 3 YEARS THEREAFTER.

33 (2) A CONTRACT TO PURCHASE OR LEASE A WOMEN'S CORRECTIONAL
34 FACILITY MAY NOT EXCEED 30 YEARS.

35 (E) (1) A WOMEN'S CORRECTIONAL FACILITY SHALL BE DESIGNED,
36 CONSTRUCTED, MAINTAINED, AND OPERATED IN ACCORDANCE WITH THE

1 AMERICAN CORRECTIONAL ASSOCIATION STANDARDS ENFORCED AT THE TIME OF
2 CONTRACTING.

3 (2) A WOMEN'S CORRECTIONAL FACILITY SHALL MEET THE
4 PERCENTAGE OF STANDARDS REQUIRED FOR ACCREDITATION BY THE AMERICAN
5 CORRECTIONAL ASSOCIATION UNLESS THE CONTRACT REQUIRES COMPLIANCE
6 WITH A HIGHER PERCENTAGE OF NONMANDATORY STANDARDS.

7 (3) THE CONTRACT MAY ALLOW THE CONTRACTOR AN EXTENSION OF
8 TIME IN WHICH TO MEET A LOWER PERCENTAGE OF NONMANDATORY STANDARDS
9 ONLY WHEN THE CONTRACT IS FOR THE RENOVATION OF AN EXISTING
10 CORRECTIONAL FACILITY.

11 (F) ALL EMPLOYEES OF A WOMEN'S CORRECTIONAL FACILITY SHALL
12 RECEIVE AT LEAST THE SAME QUALITY AND QUANTITY OF TRAINING AS THAT
13 REQUIRED FOR EMPLOYEES OF FACILITIES UNDER THE JURISDICTION OF THE
14 DEPARTMENT.

15 (G) (1) THE DEPARTMENT SHALL EMPLOY AT THE CONTRACTOR'S EXPENSE
16 A MONITOR TO CHECK ALL ASPECTS OF THE PRIVATE CONTRACTOR'S PERFORMANCE
17 UNDER A CONTRACT FOR THE OPERATION OF A WOMEN'S CORRECTIONAL FACILITY.

18 (2) ON APPROVAL BY THE DEPARTMENT, THE MONITOR MAY APPOINT
19 STAFF AT THE CONTRACTOR'S EXPENSE.

20 (3) THE CONTRACTOR SHALL PROVIDE ALL DATA, REPORTS, AND OTHER
21 MATERIALS THAT THE MONITOR DETERMINES ARE NECESSARY TO CARRY OUT THE
22 MONITOR'S DUTIES.

23 (4) THE MONITOR SHALL REPORT TO THE DEPARTMENT AT LEAST
24 MONTHLY TO ENSURE PROPER OPERATION OF THE WOMEN'S CORRECTIONAL
25 FACILITY.

26 (H) THE CONTRACTOR SHALL PROVIDE AN ADEQUATE PLAN OF INSURANCE,
27 INCLUDING INSURANCE FOR CIVIL RIGHTS CLAIMS, AS DETERMINED BY AN
28 INDEPENDENT RISK MANAGEMENT OR ACTUARIAL FIRM WITH DEMONSTRATED
29 EXPERIENCE IN PUBLIC LIABILITY FOR STATE GOVERNMENTS.

30 (I) ON DEMONSTRATION THAT A BREACH OF CONTRACT HAS OCCURRED AND
31 THAT AFTER THE PASSAGE OF A REASONABLE PERIOD OF TIME THE BREACH HAS
32 NOT BEEN CURED, THE DEPARTMENT:

33 (1) MAY WITHOUT PENALTY CANCEL A CONTRACT AT ANY TIME ON
34 GIVING A 6-MONTH WRITTEN NOTICE; AND

35 (2) MAY ASSUME IMMEDIATE TEMPORARY CONTROL OF THE
36 OPERATION OF A WOMEN'S CORRECTIONAL FACILITY PENDING TRANSFER OF
37 INMATES TO ANOTHER CORRECTIONAL FACILITY.

1 (J) A CONTRACT MADE UNDER THIS SECTION MAY NOT AUTHORIZE A
2 PRIVATE CONTRACTOR TO:

3 (1) CLASSIFY INMATES OR PLACE INMATES IN LESS RESTRICTIVE
4 CUSTODY OR MORE RESTRICTIVE CUSTODY THAN THE CUSTODY IN WHICH THEY
5 WERE PLACED ON ARRIVAL AT A WOMEN'S CORRECTIONAL FACILITY;

6 (2) SET RULES OF BEHAVIOR FOR INMATES WITHOUT PRIOR APPROVAL
7 OF THE DEPARTMENT;

8 (3) TAKE ANY DISCIPLINARY ACTION AGAINST AN INMATE WITHOUT
9 PRIOR APPROVAL OF THE DEPARTMENT;

10 (4) GRANT, DENY, OR REVOKE DIMINUTION CREDITS;

11 (5) RECOMMEND THAT THE STATE PAROLE COMMISSION DENY OR
12 GRANT PAROLE, UNLESS REQUESTED TO DO SO BY THE STATE PAROLE COMMISSION;

13 (6) DEVELOP PROCEDURES FOR CALCULATING DIMINUTION CREDITS
14 OR INMATE RELEASE AND PAROLE ELIGIBILITY DATES;

15 (7) DETERMINE INMATE ELIGIBILITY FOR WORK RELEASE OR LEAVE OF
16 ANY TYPE; OR

17 (8) REQUIRE AN INMATE TO WORK WITHOUT PRIOR APPROVAL OF THE
18 DEPARTMENT.

19 (K) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
20 SECTION.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 1998.