

REFERENCE TITLE: private prison security officers; certification

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2175

Introduced by
Representatives Andrade, Alston, Benally, Cardenas, Espinoza, Gabaldón,
Hale, Mendez, Plumlee, Saldate, Steele, Velasquez, Senator Quezada:
Representatives Bolding, Clark, Fernandez, Friese, Gonzales, Larkin,
McCune Davis, Otondo, Rios

AN ACT

AMENDING SECTIONS 41-1609.01, 41-1682, 41-1822 AND 41-1823, ARIZONA REVISED
STATUTES; RELATING TO PRIVATE PRISON SECURITY OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1609.01, Arizona Revised Statutes, is amended to
3 read:
4 41-1609.01. Adult incarceration contracts; criteria
5 A. On publication, any request for proposals shall be provided to the
6 joint legislative budget committee for its review.
7 B. To be considered for an award of a contract, the proposer must
8 demonstrate that it has:
9 1. The qualifications, operations and management experience and
10 experienced personnel necessary to carry out the terms of the contract.
11 2. The ability to comply with applicable correctional standards and
12 any specific court order, if required.
13 3. A demonstrated history of successful operation and management of
14 other secure facilities.
15 C. The proposer of a contract for correctional services must agree
16 that this state may cancel the contract at any time after the first year of
17 operation, without penalty to this state, on giving ninety days' written
18 notice.
19 D. A contract may provide for annual contract price or cost
20 adjustments, except that any adjustments may be made only once each year
21 effective on the anniversary of the effective date of the contract. If any
22 adjustment is made pursuant to the terms of the contract, it shall be applied
23 to the total payments made to the contractor for the previous contract year
24 and shall not exceed the ~~per-cent~~ PERCENT of change in the average consumer
25 price index as published by the United States department of labor, bureau of
26 labor statistics between that figure for the latest calendar year and the
27 next previous calendar year.
28 E. Any price or cost adjustments to a contract different than those
29 authorized in subsection D of this section may be made only if the
30 legislature specifically authorizes the adjustments and appropriates monies
31 for that purpose, if required.
32 F. An award of a contract shall not be made unless an acceptable
33 proposal is received pursuant to any request for proposals. For the purposes
34 of this subsection, "acceptable proposal" means a proposal that substantially
35 meets all of the requirements or conditions set forth in this section and
36 that meets all of the requirements in the request for proposals.
37 G. A proposal shall not be accepted unless the proposal offers cost
38 savings to this state.
39 H. A proposal shall not be accepted unless the proposal offers a level
40 and quality of services that are at least functionally equal to those that
41 would be provided by this state.
42 I. Notwithstanding section 41-2546, a contract to provide correctional
43 services as described in this section may be for an initial period of not
44 more than ten years.

1 J. The initial contract may include an option to renew for two
2 subsequent renewal periods of not more than five years each.

3 K. A contract for correctional services described in this section
4 shall not be entered into unless the following requirements are met:

5 1. The contractor provides audited financial statements for the
6 previous five years, or for each of the years the contractor has been in
7 operation, if fewer than five years, and provides other financial information
8 as requested.

9 2. The contractor provides an adequate plan of insurance, specifically
10 including coverage or insurance for civil rights claims and liabilities as
11 approved by the risk management division of the department of administration.

12 3. The contractor agrees to be liable for the costs of any emergency,
13 public safety or security services provided to the contractor by the state or
14 any political subdivision of the state and to reimburse the state or any
15 political subdivision of the state for the cost of any such services.

16 4. THE CONTRACTOR ONLY USES SECURITY OFFICERS WHO ARE CERTIFIED
17 PURSUANT TO SECTION 41-1822.

18 L. The sovereign immunity of this state does not apply to the
19 contractor. Neither the contractor nor the insurer of the contractor may
20 plead the defense of sovereign immunity in any action arising out of the
21 performance of the contract.

22 M. A contract for correctional services shall not authorize, allow or
23 imply a delegation of authority or responsibility to a prison contractor for
24 any of the following:

25 1. Developing and implementing procedures for calculating inmate
26 release dates.

27 2. Developing and implementing procedures for calculating and awarding
28 sentence credits.

29 3. Approving the type of work inmates may perform and the wages or
30 sentence credits that may be given to inmates engaging in the work.

31 4. Granting, denying or revoking sentence credits, placing an inmate
32 under less restrictive custody or more restrictive custody or taking any
33 disciplinary actions.

34 Sec. 2. Section 41-1682, Arizona Revised Statutes, is amended to read:

35 41-1682. Private prisons; prohibitions; liability for services;
36 financial responsibility; security officer
37 qualifications

38 A. No private prison may operate in this state unless the private
39 contractor complies with this section.

40 B. A private prison shall provide the department of administration
41 with financial responsibility to cover this state's potential liability in
42 the amount of ten million dollars. The monies shall be used by the state if
43 the state is held liable for civil damages resulting from the escape of a
44 prisoner from the private prison. The private prison may file proof of
45 financial responsibility by filing one of the following:

- 1 1. Proof that ten million dollars is deposited in the private prison
2 escapee fund established by section 41-1830.31.
- 3 2. An insurance policy that is in a form approved by the department of
4 administration, that provides civil liability and civil rights liability
5 coverage in the amount of ten million dollars and ~~listing~~ THAT LISTS
6 the state as an insured.
- 7 3. A surety bond with the principal sum of ten million dollars.
- 8 4. A certified financial statement that is not more than ninety days
9 old and that shows a net worth of more than fifteen million dollars. Every
10 ninety days the private prison shall submit a certified financial statement
11 to the department of administration signed under oath by the chief financial
12 officer of the prison. If the financial statement indicates a net worth of
13 less than fifteen million dollars, the private prison shall comply with
14 ~~paragraphs~~ PARAGRAPH 1, 2 or 3 of this subsection.
- 15 C. An insurance company or surety company duly authorized to transact
16 business in this state shall execute the insurance policy or bond prescribed
17 in subsection B of this section.
- 18 D. The insurance policy or surety bond shall continue in effect until
19 ninety days after the private prison is sold or closed. Any monies deposited
20 in the private prison escapee fund by the private prison shall be refunded to
21 the private prison within ninety days after submission of evidence to the
22 director of the department of administration that the private prison is
23 either sold or closed and there are no remaining liabilities for which the
24 state might be required to assume responsibility.
- 25 E. On receipt by the director of the department of administration of
26 notice to cancel an insurance policy or bond by an insurance company or
27 surety, the director OF THE DEPARTMENT OF ADMINISTRATION shall immediately
28 notify the private prison NAMED on the insurance policy or the surety bond of
29 the effective date of cancellation of the insurance policy or the surety
30 bond. The private prison shall furnish a like insurance policy or surety
31 bond within thirty days after mailing of the notice by the director OF THE
32 DEPARTMENT OF ADMINISTRATION. Unless a replacement insurance policy or
33 surety bond is filed with the director OF THE DEPARTMENT OF ADMINISTRATION,
34 the right of the private ~~prisons~~ PRISON to operate in this state shall be
35 suspended by operation of law on the date the bond is canceled.
- 36 F. If any of the monies required by subsection B, paragraph 1 of this
37 section are used to satisfy civil damage claims or civil rights claims, the
38 private prison shall reestablish the full amount of those monies within
39 thirty days after notification by the director of the department of
40 administration.
- 41 G. A security officer employed by a private prison contractor shall be
42 at least twenty-one years of age, ~~and~~ have no felony convictions AND BE
43 CERTIFIED PURSUANT TO SECTION 41-1822. A SECURITY OFFICER WHO IS EMPLOYED BY
44 A PRIVATE PRISON CONTRACTOR SHALL NOT HAVE ANY AUTHORITY OR JURISDICTION
45 OUTSIDE THE GROUNDS OF A PRIVATE PRISON FACILITY.

1 Sec. 3. Section 41-1822, Arizona Revised Statutes, is amended to read:
2 41-1822. Powers and duties of board; definition

3 A. With respect to peace officer training and certification, the board
4 shall:

5 1. Establish rules for the government and conduct of the board,
6 including meeting times and places and matters to be placed on the agenda of
7 each meeting.

8 2. Make recommendations, consistent with this article, to the
9 governor, the speaker of the house of representatives and the president of
10 the senate on all matters relating to law enforcement and public safety.

11 3. Prescribe reasonable minimum qualifications for officers to be
12 appointed to enforce the laws of this state and the political subdivisions of
13 this state and certify officers in compliance with these qualifications.
14 Notwithstanding any other law, the qualifications shall require United States
15 citizenship, shall relate to physical, mental and moral fitness and shall
16 govern the recruitment, appointment and retention of all agents, peace
17 officers and police officers of every political subdivision of this state.
18 The board shall constantly review the qualifications established by this
19 section and may amend the qualifications at any time, subject to the
20 requirements of section 41-1823.

21 4. Prescribe minimum courses of training and minimum standards for
22 training facilities for law enforcement officers. Only this state and
23 political subdivisions of this state may conduct basic peace officer
24 training. Basic peace officer academies may admit individuals who are not
25 peace officer cadets only if a cadet meets the minimum qualifications
26 established by paragraph 3 of this subsection. Training shall include:

27 (a) Courses in responding to and reporting all criminal offenses that
28 are motivated by race, color, religion, national origin, sexual orientation,
29 gender or disability.

30 (b) Training certified by the director of the department of health
31 services with assistance from a representative of the board on the nature of
32 unexplained infant death and the handling of cases involving the unexplained
33 death of an infant.

34 (c) Medical information on unexplained infant death for first
35 responders, including awareness and sensitivity in dealing with families and
36 child care providers, and the importance of forensically competent death
37 scene investigations.

38 (d) Information on the protocol of investigation in cases of an
39 unexplained infant death, including the importance of a consistent policy of
40 thorough death scene investigation.

41 (e) The use of the infant death investigation checklist pursuant to
42 section 36-3506.

43 (f) If an unexplained infant death occurs, the value of timely
44 communication between the medical examiner's office, the department of health
45 services and appropriate social service agencies that address the issue of

1 infant death and bereavement, to achieve a better understanding of these
2 deaths and to connect families to various community and public health support
3 systems to enhance recovery from grief.

4 5. Recommend curricula for advanced courses and seminars in law
5 enforcement and intelligence training in universities, colleges and community
6 colleges, in conjunction with the governing body of the educational
7 institution.

8 6. Make inquiries to determine whether this state or political
9 subdivisions of this state are adhering to the standards for recruitment,
10 appointment, retention and training established pursuant to this article.
11 The failure of this state or any political subdivision to adhere to the
12 standards shall be reported at the next regularly scheduled meeting of the
13 board for action deemed appropriate by that body.

14 7. Employ an executive director and other staff as are necessary to
15 fulfill the powers and duties of the board in accordance with the
16 requirements of the law enforcement merit system council.

17 B. With respect to state department of corrections correctional
18 officers **AND PRIVATE PRISON SECURITY OFFICERS**, the board shall:

19 1. Approve a basic training curriculum of at least two hundred forty
20 hours.

21 2. Establish uniform minimum standards. These standards shall include
22 high school graduation or the equivalent and a physical examination as
23 prescribed by the director of the state department of corrections.

24 3. Establish uniform standards for background investigations,
25 including criminal histories under section 41-1750, of all applicants before
26 enrolling in the academy **OR WORKING IN A PRIVATE PRISON FACILITY**. The board
27 may adopt special procedures for extended screening and investigations in
28 extraordinary cases to ensure suitability and adaptability to a career as a
29 correctional officer **OR PRIVATE PRISON SECURITY OFFICER**.

30 4. Issue a certificate of completion to any state department of
31 corrections correctional officer **OR PRIVATE PRISON SECURITY OFFICER** who
32 satisfactorily complies with the minimum standards and completes the basic
33 training program. The board may issue a certificate of completion to a state
34 department of corrections correctional officer **OR PRIVATE PRISON SECURITY**
35 **OFFICER** who has received comparable training in another state if the board
36 determines that the training was at least equivalent to that provided by the
37 academy and if the person complies with the minimum standards.

38 5. Establish continuing training requirements and approve curricula.

39 C. With respect to peace officer misconduct, the board may:

40 1. Receive complaints of peace officer misconduct from any person,
41 request law enforcement agencies to conduct investigations and conduct
42 independent investigations into whether an officer is in compliance with the
43 qualifications established pursuant to subsection A, paragraph 3 of this
44 section.

