

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0111.01 Michael Dohr

HOUSE BILL 10-1219

HOUSE SPONSORSHIP

Vaad,

SENATE SPONSORSHIP

Penry,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AUTHORIZATION FOR THE SALE OF CORRECTIONAL
102 FACILITIES OWNED BY THE DEPARTMENT OF CORRECTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

The bill authorizes the executive director of the department of corrections to sell by competitive bid the correctional facilities owned by the department of corrections. Under current law, private prisons may only house medium security or lower security inmates. The bill removes that limitation.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Authority to sell real property.** The executive
3 director of the department of corrections, on behalf of the state of
4 Colorado, is hereby authorized to sell by competitive bid, in accordance
5 with the procedures and conditions specified in section 2 of this act, any
6 correctional facilities owned by the department of corrections that would
7 total nine hundred fifty-six beds.

8 **SECTION 2. Procedures and conditions for the real property**
9 **sale.** (1) The executive director of the department of corrections, or his
10 or her designated representative, shall ensure that, at a minimum, the
11 following procedures or conditions are followed in completing the
12 transactions:

13 (a) **Contract.** A contract for the sale of the property described in
14 section 1 of this act shall be negotiated between the purchaser and the
15 state of Colorado acting through the department of corrections that shall
16 contain at a minimum the requirements of this section. The contract shall
17 provide dates for performance by the purchaser as well as by the state of
18 the acts and performances undertaken, including those required by this
19 act, and time shall be of the essence in the contract. At the time the
20 contract is signed, the purchaser shall present a certified check made out
21 to the treasurer of the state of Colorado in an amount to cover the cost of
22 the appraisal required pursuant to paragraph (b) of this subsection (1).

23 (b) **Appraisal.** Two appraisals of the property described in
24 section 1 of this act shall be conducted by two independent appraisers
25 who are designated members of the appraisal institute (MAI), chosen by
26 the executive director of the department of corrections. The appraisals

1 shall be paid for by the purchaser with the funds provided in paragraph
2 (a) of this subsection (1).

3 (c) **Sale price.** The sale price shall be determined by competitive
4 bid.

5 (d) **Transfer of title.** The executive director of the department of
6 corrections is authorized to execute a quit claim deed for the real property
7 described in section 1 of this act when the conditions of paragraphs (a)
8 through (c) of this subsection (1), as applicable, have been met by the
9 purchaser. The state of Colorado is obligated by this section and section
10 1 of this act to transfer title of the real property so long as the purchaser
11 fulfills the conditions of this section and section 1 of this act. In the event
12 that any of the conditions are not met, the executive director of the
13 department of corrections shall cease conducting business with the
14 purchaser and shall so notify the purchaser, the general assembly, and the
15 attorney general of the state of Colorado. In the event of default by the
16 purchaser, any and all moneys received by the state shall be retained as
17 liquidated damages.

18 **SECTION 3.** 17-1-104.9, Colorado Revised Statutes, is amended
19 to read:

20 **17-1-104.9. State inmates at private prisons.** (1) Based upon
21 available appropriations and based upon an annual review by the general
22 assembly, the department is authorized to permanently place state inmates
23 ~~classified as medium custody and below~~ in private contract prisons.
24 ~~Except as otherwise provided in subsection (2) of this section, the~~
25 ~~department may not place state inmates classified higher than medium~~
26 ~~custody in private contract prisons or in private prison facilities located~~
27 ~~outside the state of Colorado. This section does not prevent a private~~

1 contract prison from incarcerating an inmate who has been reclassified to
2 a higher custody designation as a result of an offense committed within
3 the private contract prison. However, it is the intent of the general
4 assembly that the department move any inmate of a higher custody
5 designation out of the private contract prison as soon as space is available
6 at a state-operated correctional facility.

7 (2) (a) ~~At the request of the executive director, the governor may,~~
8 ~~in his or her discretion, declare a correctional emergency and by~~
9 ~~proclamation authorize the department to place state inmates classified~~
10 ~~higher than medium custody in private contract prisons or in private~~
11 ~~prison facilities located outside the state of Colorado. A proclamation~~
12 ~~issued under this subsection (2) shall remain in effect for thirty days.~~

13 (b) ~~At the request of the executive director, the governor may, in~~
14 ~~his or her discretion, renew a declaration of correctional emergency and~~
15 ~~reissue a proclamation in accordance with paragraph (a) of this subsection~~
16 ~~(2) for one or more additional thirty-day periods as the governor deems~~
17 ~~appropriate.~~

18 (c) ~~For purposes of this section, "correctional emergency" means~~
19 ~~a riot, a disturbance, a homicide, or inmate violence occurring in a~~
20 ~~correctional facility or in transit to or from a correctional facility, or a~~
21 ~~situation involving inmates that presents a clear and immediate danger to~~
22 ~~the safety, security, and control of the department. "Correctional~~
23 ~~emergency" does not include inmate overcrowding.~~

24 **SECTION 4. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.