

106TH CONGRESS
1ST SESSION

H. R. 979

To ensure that services related to the operation of a correctional facility and the incarceration of inmates are not provided by private contractors or vendors and that persons convicted of any offenses against the United States shall be housed in facilities managed and maintained by Federal employees.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1999

Mr. STRICKLAND (for himself, Mr. KING, Mr. SWEENEY, Mr. HOLDEN, Ms. SCHAKOWSKY, Mr. GREEN of Texas, Mrs. MALONEY of New York, Mr. WALSH, and Mr. COYNE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To ensure that services related to the operation of a correctional facility and the incarceration of inmates are not provided by private contractors or vendors and that persons convicted of any offenses against the United States shall be housed in facilities managed and maintained by Federal employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Safety Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The issues of safety, liability, accountability,
4 and cost are the paramount issues in running cor-
5 rections facilities.

6 (2) In recent years, the privatization of persons
7 previously incarcerated by governmental entities has
8 resulted in frequent escapes by violent criminals,
9 riots resulting in extensive damage, prisoner on pris-
10 oner violence, and incidents of prisoner abuse by
11 staff.

12 (3) In some instances, the courts have prohib-
13 ited the transfer of additional convicts to private
14 prisons because of the danger to prisoners and the
15 community.

16 (4) Frequent escapes and riots at private facili-
17 ties impose expensive law enforcement operations on
18 State and local governments.

19 (5) The need to make profits creates incentives
20 for private contractors to underfund mechanisms
21 that provide for the security of the facility and the
22 safety of the inmates, corrections staff, and neigh-
23 boring community.

24 (6) The 1997 Supreme Court ruling in Richard-
25 son v. McKnight that the qualified immunity that
26 shields State and local correctional officers does not

1 apply to private prison personnel, and therefor ex-
2 poses State and local governments to liability for the
3 actions of private corporations.

4 (7) Additional liability issues arise when in-
5 mates are transferred outside the jurisdiction of the
6 contracting State.

7 (8) Studies on private correctional facilities
8 have been unable to demonstrate any significant cost
9 savings in the privatization of corrections facilities.

10 (9) The imposition of punishment on errant
11 citizens through incarceration requires State and
12 local governments to exercise their coercive police
13 powers over individuals. These powers, including the
14 authority to use force over a private citizen, should
15 not be delegated to another private party.

16 **SEC. 3. ELIGIBILITY FOR GRANTS.**

17 (a) IN GENERAL.—To be eligible to receive a grant
18 under subtitle A of title II of the Violent Crime Control
19 and Law Enforcement Act of 1994, a grantee that receives
20 funds under such subtitle may not contract with a private
21 contractor or vendor to provide services related to the op-
22 eration of a correctional facility or the incarceration of in-
23 mates.

1 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
2 grant funds received after the date of the enactment of
3 this Act.

4 **SEC. 4. ENHANCING PUBLIC SAFETY AND SECURITY IN THE**
5 **DUTIES OF THE BUREAU OF PRISONS.**

6 (a) IN GENERAL.—Section 4042(a) of title 18,
7 United States Code, is amended—

8 (1) by redesignating paragraph (5) as para-
9 graph (7);

10 (2) by striking “and” at the end of paragraph
11 (4); and

12 (3) by inserting after paragraph (4) the follow-
13 ing:

14 “(5) provide that any penal or correctional fa-
15 cility or institution except for community correc-
16 tional confinement such as halfway houses, confining
17 any person convicted of offenses against the United
18 States shall be under the direction of the director of
19 the Bureau of Prisons and shall be managed and
20 maintained by employees of the United States as de-
21 fined in section 2105 of title 5; and

22 “(6) provide that the housing, safeguarding,
23 care, subsistence, protection, instructing, and dis-
24 ciplining of any person charged with or convicted of
25 any offense against the United States, except such

1 persons in community correctional confinement such
2 as halfway houses, will be conducted and carried out
3 by individuals who are employees of the United
4 States as defined in section 2105 of title 5; and”.

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