

House Bill 3439

Sponsored by Representative SHEEHAN; Representatives BENTZ, BREWER, CAMERON, CONGER, FREEMAN, GARRARD, GILLIAM, JOHNSON, KRIEGER, OLSON, PARRISH, RICHARDSON, THOMPSON, WEIDNER, WINGARD

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Department of Corrections to enter into contracts or arrangements with private entities for confinement and detention in Oregon of persons sentenced to legal and physical custody of department. Defines "law enforcement unit" to include private entity that enters into contract or arrangement for confinement and detention of prisoners in Oregon.

A BILL FOR AN ACT

1
2 Relating to the privatization of Department of Corrections institutions; creating new provisions; and
3 amending ORS 181.610, 421.215, 421.220 and 421.225.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS**
6 **chapter 421.**

7 **SECTION 2. (1) The Department of Corrections may enter into contracts or arrange-**
8 **ments with private entities for the confinement and detention in this state of persons sen-**
9 **tenced to the legal and physical custody of the department.**

10 **(2) Contracts or arrangements entered into pursuant to subsection (1) of this section:**

11 **(a) May provide for the reception, detention, care, maintenance and employment in this**
12 **state of persons convicted of a felony in the courts of this state and sentenced to a term of**
13 **imprisonment.**

14 **(b) Must require compliance with the provisions of section 41, Article I of the Oregon**
15 **Constitution.**

16 **SECTION 3. (1) After the Department of Corrections has entered into a contract or ar-**
17 **rangment pursuant to section 2 of this 2011 Act, persons convicted of a felony in the courts**
18 **of this state and sentenced to the legal and physical custody of the department, including**
19 **those who, on the effective date of the contract or arrangement, are in the legal and physical**
20 **custody of the department, may be transferred, as provided by law, by the department to the**
21 **custody of the private entity that is a party to the contract or arrangement.**

22 **(2) Persons transferred to the custody of a private entity pursuant to subsection (1) of**
23 **this section shall be confined in this state by the private entity pursuant to the terms of the**
24 **contract or arrangement with the department until their respective sentences have expired**
25 **or until they are otherwise discharged by law.**

26 **SECTION 4. ORS 421.215 is amended to read:**

27 **421.215. If the presence of any inmate confined in a county jail [*or in*], the institution of another**
28 **state or the federal government[,] **or a correctional institution operated by a private entity** is**
29 **required in any judicial proceeding of this state, the superintendent in charge of the institution from**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 which the inmate was conveyed, upon being so directed by the Director of the Department of Cor-
 2 rections or upon the written order or direction of *[any]* a court of competent jurisdiction or of a
 3 judge *[thereof]* **of the court**, shall procure *[such]* **the** inmate, bring the inmate to the place directed
 4 in *[such]* **the** order and hold the inmate in custody subject to the further order and direction of the
 5 director, or of the court or *[of a judge thereof]* **the judge**, until the inmate is lawfully discharged
 6 from custody. The superintendent shall, by direction of the director or of the court or a judge
 7 *[thereof]* **of the court**, deliver *[such]* **the** inmate into the custody of the sheriff of the county in
 8 which the inmate was convicted, and shall, by like order, return *[such]* **the** inmate to the institution
 9 from which the inmate was taken.

10 **SECTION 5.** ORS 421.220 is amended to read:

11 421.220. Upon the expiration of any contract **or arrangement** entered into under ORS 421.205
 12 **or section 2 of this 2011 Act**, all inmates of this state confined in *[such]* **the** institution or jail
 13 **pursuant to the contract or arrangement** shall be returned by the Department of Corrections to
 14 department custody, or delivered to *[such other]* **another** institution *[as]* **with which** the Department
 15 of Corrections has contracted *[with]* under ORS 421.205 **or section 2 of this 2011 Act**.

16 **SECTION 6.** ORS 421.225 is amended to read:

17 421.225. The superintendents shall be allowed and paid all their necessary expenses and dis-
 18 bursements incurred while performing any duty required of them by ORS 421.205, 421.210, 421.215
 19 and 421.220 **and sections 2 and 3 of this 2011 Act**.

20 **SECTION 7.** ORS 181.610 is amended to read:

21 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

22 (1) "Abuse" has the meaning given the term in ORS 107.705.

23 (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to
 24 ORS 181.620.

25 (3) "Certified reserve officer" means a reserve officer who has been designated by a local law
 26 enforcement unit, has received training necessary for certification and has met the minimum stan-
 27 dards and training requirements established under ORS 181.640.

28 (4) "Commissioned" means an authorization granting the power to perform various acts or duties
 29 of a police officer or certified reserve officer and acting under the supervision and responsibility of
 30 a county sheriff or as otherwise provided by law.

31 (5) "Corrections officer" means an officer or member of a law enforcement unit who is employed
 32 full-time thereby and is charged with and primarily performs the duty of custody, control or super-
 33 vision of individuals convicted of or arrested for a criminal offense and confined in a place of
 34 incarceration or detention other than a place used exclusively for incarceration or detention of ju-
 35 veniles.

36 (6) "Department" means the Department of Public Safety Standards and Training.

37 (7) "Director" means the Director of the Department of Public Safety Standards and Training.

38 (8) "Domestic violence" means abuse between family or household members.

39 (9) "Emergency medical dispatcher" means a person who has responsibility to process requests
 40 for medical assistance from the public or to dispatch medical care providers.

41 (10) "Family or household members" has the meaning given that term in ORS 107.705.

42 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member
 43 of a public or private fire protection agency that is engaged primarily in fire investigation, fire
 44 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light
 45 and heavy rescue services, search and rescue services or hazardous materials incident response.

1 “Fire service professional” does not include forest fire protection agency personnel.

2 (12)(a) “Law enforcement unit” means a police force or organization of the state, a city, port,
 3 school district, mass transit district, county, county service district authorized to provide law
 4 enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the De-
 5 partment of Justice, the Department of Corrections **or a private entity that enters into a con-**
 6 **tract or arrangement with the Department of Corrections pursuant to section 2 of this 2011**
 7 **Act**, the Oregon State Lottery Commission or common carrier railroad whose primary duty, as
 8 prescribed by law, ordinance or directive, is any one or more of the following:

9 (A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating
 10 to airport security;

11 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal
 12 offense and confined to a place of incarceration or detention other than a place used exclusively for
 13 incarceration or detention of juveniles; or

14 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced
 15 to probation and investigation of adult offenders on parole or probation or being considered for
 16 parole or probation.

17 (b) “Law enforcement unit” also means:

18 (A) A police force or organization of a private entity with a population of more than 1,000 res-
 19 idents in an unincorporated area whose employees are commissioned by a county sheriff;

20 (B) A district attorney’s office; and

21 (C) A private, nonprofit animal care agency that has maintained an animal welfare investigation
 22 department for at least five years and has had officers commissioned as special agents by the Gov-
 23 ernor.

24 (13) “Parole and probation officer” means:

25 (a) Any officer who is employed full-time by the Department of Corrections, a county or a court
 26 and who is charged with and performs the duty of:

27 (A) Community protection by controlling, investigating, supervising and providing or making
 28 referrals to reformative services for adult parolees or probationers or offenders on post-prison
 29 supervision; or

30 (B) Investigating adult offenders on parole or probation or being considered for parole or pro-
 31 bation; or

32 (b) Any officer who:

33 (A) Is certified and has been employed as a full-time parole and probation officer for more than
 34 one year;

35 (B) Is employed part-time by the Department of Corrections, a county or a court; and

36 (C) Is charged with and performs the duty of:

37 (i) Community protection by controlling, investigating, supervising and providing or making re-
 38 ferrals to reformative services for adult parolees or probationers or offenders on post-prison super-
 39 vision; or

40 (ii) Investigating adult offenders on parole or probation or being considered for parole or pro-
 41 bation.

42 (14) “Police officer” means an officer, member or employee of a law enforcement unit who is
 43 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-
 44 trict, county, county service district authorized to provide law enforcement services under ORS
 45 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon

1 State Lottery Commission or the Governor or who is a member of the Department of State Police
2 and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating
3 to airport security or is an investigator of a district attorney's office if the investigator is or has
4 been certified as a peace officer in this or any other state.

5 (15) "Public or private safety agency" means any unit of state or local government, a special
6 purpose district or a private firm which provides, or has authority to provide, fire fighting, police,
7 ambulance or emergency medical services.

8 (16) "Public safety personnel" and "public safety officer" include corrections officers, youth
9 correction officers, emergency medical dispatchers, parole and probation officers, police officers,
10 certified reserve officers, telecommunicators and fire service professionals.

11 (17) "Reserve officer" means an officer or member of a law enforcement unit:

12 (a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned
13 by a city, port, school district, mass transit district, county, county service district authorized to
14 provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Divi-
15 sion of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is
16 a member of the Department of State Police;

17 (b) Who is armed with a firearm; and

18 (c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or
19 ordinances relating to airport security.

20 (18) "Telecommunicator" means any person employed as an emergency telephone worker as de-
21 fined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing
22 and transmitting public safety information received through a 9-1-1 emergency reporting system as
23 defined in ORS 403.105.

24 (19) "Youth correction officer" means an employee of the Oregon Youth Authority who is
25 charged with and primarily performs the duty of custody, control or supervision of youth offenders
26 confined in a youth correction facility.

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