

12-1-1997

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Recommended Citation

James D. Johnson, *PENAL INSTITUTIONS Correctional Institutions of State and Counties: Allow Privately-Operated Prisons to Utilize Penal Labor Following the Same Standards as State-Run Institutions*, 14 GA. ST. U. L. REV. (1997).

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PENAL INSTITUTIONS

*Correctional Institutions of State and Counties:
Allow Privately-Operated Prisons to Utilize Penal Labor
Following the Same Standards as State-Run Institutions*

CODE SECTIONS: O.C.G.A. §§ 24-7-27 (new), 42-5-36, -60
(amended)
BILL NUMBER: SB 48
ACT NUMBER: 303
GEORGIA LAWS: 1997 Ga. Laws 851
SUMMARY: The Act provides for privately-operated prisons to utilize state inmate labor in the same way that state-run prisons utilize inmate labor. Profits from any labor or products produced by these inmates will go to the state. The Act also provides for an official custodian of the Department of Corrections records and provides that certified records of the Department of Corrections be admissible in civil and criminal proceedings.
EFFECTIVE DATE: April 21, 1997¹

History

Privatization of some prisons in Georgia has already taken place.² The Attorney General's Office suggested that legislation be developed, which allows private prison inmates to work in the same manner as state-run prison inmates, with the same standards applicable to both situations.³ The Attorney General's Office proposed this legislation to ensure that the proceeds of any work that is performed by inmates of privately run prisons go to the state rather than to the privately-operated prisons.⁴

1. The Act became effective upon approval by the Governor.

2. See Record of Proceedings on the Senate Floor (Jan. 27, 1997) (remarks by Sen. Nathan Dean, Senate District No. 31) [hereinafter Dean Remarks] (available in Georgia State University College of Law Library); see also Telephone Interview with Sen. A.C. Guhl, Senate District No. 45 (Apr. 23, 1997) [hereinafter Guhl Interview]. Senator Guhl indicated that two privately-operated prisons were to be opened in the near future. Guhl Interview, *supra*.

3. See Dean Remarks, *supra* note 2.

4. See *id.*

SB 48

An amendment to the original SB 48 was offered as a House substitute. It proposed two substantial new subsections.⁵ These proposed subsections to Code section 42-5-36 were as follows:

(b) Any person convicted of a crime remanded to a penal institution that profits by an article, story, novel, book, television, movie or any other as a result of the criminal activity in which the inmate is convicted will pay all proceeds to the victim(s) of the crime(s) committed.

(c) Any organization, group, or individual that profits from the story, television, movie, novel, article that involves a crime or criminal act while an inmate that has committed a crime is still incarcerated will pay 50% of all profits to the victim(s) of the crime(s) or criminal activity of the convicted inmate.⁶

These subsections were struck from the language of the bill and are not included in the Act.⁷

Code section 42-5-60 provides the rules and regulations that govern the use of inmate labor in Georgia.⁸ The Act amends Code section 42-5-60 to include privately-operated prisons in the rules that apply to the labor of inmates of public state prisons.⁹ In addition, the Act provides that the proceeds of any work performed by the inmates of privately-operated prisons will go to the state rather than to the operators of the prison.¹⁰

In addition to the main portion of the Act, two additional features are included. The Act amends Code section 42-5-36 by adding a new subsection,¹¹ which provides for the Commissioner of the Department

5. See SB 48 (HFS), 1997 Ga. Gen. Assem.

6. *Id.*

7. Compare SB 48, as introduced, 1997 Ga. Gen. Assem., with SB 48 (HFS), 1997 Ga. Gen. Assem; see also Telephone Interview with Jack Littleton, Legislative Counsel (Apr. 22, 1997). Mr. Littleton expressed relief that this portion of the House Substitute was stricken, and indicated that a similar law was already in place in Georgia, making this amendment unnecessary. See 1979 Ga. Laws 1262 (codified at O.C.G.A. § 17-14-31 (1996)) (setting up procedure for dealing with inmates' profits gained from movies, books, etc. related to their crimes); see also Guhl Interview, *supra* note 2 (indicating that he believed this language was struck in Joint Committee as he did not remember Corrections Committee discussing this amendment).

8. 1956 Ga. Laws 161, § 22 (codified at O.C.G.A. § 42-5-60 (1997)).

9. O.C.G.A. § 42-5-60 (1997).

10. *Id.*; see also Guhl Interview, *supra* note 2. Senator Guhl indicated that any profits made from the labor of prisoners will go to the General Fund of the state. Guhl Interview, *supra* note 2.

11. O.C.G.A. § 42-5-36(d) (1997).

of Corrections to “designate members of the department to be the official custodians of the records of the department.”¹²

Finally, the Act creates Code section 24-7-27, which provides for the records of the Department of Corrections to be “admissible as evidence in any civil or criminal proceeding as proof of the contents thereof.”¹³

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12. *Id.*

13. *See id.* § 24-7-27 (relating to authentication of public records).