

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 137
Judiciary II Committee Substitute Adopted 3/6/01
Third Edition Engrossed 3/7/01
House Committee Substitute Favorable 4/12/01
Fifth Edition Engrossed 5/29/01**

Short Title: Private Correctional Officers.

(Public)

Sponsors:

Referred to:

February 14, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE CERTAIN PRIVATE CORRECTIONAL OFFICERS TO
3 USE FORCE AND MAKE ARRESTS CONSISTENT WITH NORTH CAROLINA
4 LAW.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Correctional officers and security supervisors employed at
7 private correctional facilities pursuant to a contract between their employer and the
8 Federal Bureau of Prisons, may within the boundaries of the county in which the facility
9 is located and in the course of their employment as correctional officers or security
10 supervisors use necessary force and make arrests consistent with the laws applicable to
11 the North Carolina Department of Correction, which force shall not exceed that
12 authorized to Department of Correction officers, provided that the Department of
13 Correction determines that the employment policies of such private corporations meet
14 the same minimum standards and practices followed by the Department of Correction in
15 employing its correctional personnel, and if:

- 16 (1) Those correctional officers and security supervisors have been
17 certified as correctional officers as provided under Chapter 17C of the
18 General Statutes; or
19 (2) Those correctional officers and security supervisors employed by the
20 private corporation at the facility have completed a training curriculum
21 that the Department of Correction has determined meets or exceeds the
22 standards required by the North Carolina Criminal Justice Education
23 and Training Standards Commission for correctional personnel. The
24 Department may require that it be notified of the names and positions
25 of such persons prior to such persons' beginning duties at the
26 correctional facility, and the names and positions of those persons

1 already employed at the correctional facility on the effective date of
2 this act and that the Department be notified when any such person is
3 no longer employed in such duties at the correctional facility.

4 **SECTION 2.** Any private corporation described in Section 1 of this act shall
5 without limit defend, indemnify, and hold harmless the State, its officers, employees,
6 and agents from any claims arising out of the operation of the private correctional
7 facility, or the granting of the powers authorized under this act, including any attorneys'
8 fees or other legal costs incurred by the State, its officers, employees, or agents as a
9 result of such claims.

10 **SECTION 2.1.** Any private corporation described in Section 1 of this act
11 shall without limit reimburse the State, its officers, employees, and agents as well as any
12 county or other law enforcement agency for the full cost of any expenses incurred by
13 the State or the county or other law enforcement agency in connection with the pursuit
14 and apprehension of an escaped inmate from the facility.

15 **SECTION 3.** Any private corporation described in Section 1 of this act must
16 maintain in force liability insurance to satisfy any final judgment rendered against the
17 private corporation or the State, its officers, employees, and agents that arises out of the
18 operation of the correctional facility or the indemnification requirements in Section 2 of
19 this act. The minimum amount of liability insurance that will be required under this
20 section is ten million dollars (\$10,000,000) per occurrence, and twenty-five million
21 dollars (\$25,000,000) aggregate per occurrence. The private corporation shall ensure
22 that its insurance company shall provide the Department of Correction with a current
23 Certificate of Insurance evidencing compliance with the requirements of this section
24 within 10 days of the effective date of this act and annually thereafter.

25 **SECTION 4.** The Department of Correction shall adopt rules to implement
26 the provisions of this act.

27 **SECTION 5.** The authority set forth in this act to use necessary force and
28 make arrests shall be in addition to any existing authority set forth in the statutory or
29 common law of the State, but shall not exceed the authority to use necessary force and
30 make arrests set out in Section 1 of this act.

31 **SECTION 6.** A private corporation described in Section 1 of this act shall
32 bear the reasonable costs of services provided by the Department of Correction for the
33 corporation. The amount of the costs shall be determined by the Secretary of the
34 Department.

35 **SECTION 7.** This act is effective when it becomes law, applies to private
36 correctional facilities, and the employees of those correctional facilities, constructed and
37 contracted to be operated by the effective date of this act, and expires two years after the
38 effective date.