

HOUSE BILL NO. 498

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 2/20/02

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act expressing legislative intent regarding privately operated correctional facility**
2 **space and services; relating to the development and financing of privately operated**
3 **correctional facility space and services; authorizing the Department of Corrections to**
4 **enter into an agreement for the confinement and care of prisoners in privately operated**
5 **correctional facility space; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 LEGISLATIVE INTENT. It is the intent of the legislature to secure additional
10 correctional facility space and services through a privately operated correctional facility in
11 Alaska. The legislature expects the Department of Corrections to contract with the City of
12 Whittier for privately operated correctional facility space and services similar to those
13 currently acquired for medium-security Alaska prisoners in a privately operated prison outside

1 the state. The legislature anticipates a privately operated correctional facility will bring
 2 competitive management styles and operations to Alaska. The legislature expects that the
 3 initial per diem cost at a privately operated facility (excluding costs related to major medical,
 4 prescription medication, and transportation of prisoners and other services excluded in
 5 contracts for Alaska prisoner care and custody in privately operated facilities outside the state
 6 but including the capital costs for construction of the facility, including debt service) will be
 7 18 - 20 percent less than the current average per diem rate for all state facilities as reported to
 8 the federal government for reimbursement purposes and should be approximately \$89 to \$91
 9 in current dollars.

10 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 **AUTHORIZATION TO CONTRACT FOR CORRECTIONAL FACILITY SPACE**
 13 **AND SERVICES WITH THIRD-PARTY CONTRACTOR OPERATION.** (a) The
 14 Department of Corrections is authorized to enter into an agreement with the City of Whittier
 15 for the purpose of acquiring correctional facility space and services for a minimum of 25
 16 years for persons who are committed to the custody of the commissioner of corrections.

17 (b) The agreement entered into under this section is predicated on and must provide
 18 for an agreement between the City of Whittier and one or more private third-party contractors
 19 under which private, for profit or nonprofit third-party contractors construct and operate the
 20 facility by providing for custody, care, and discipline services for persons committed to the
 21 custody of the commissioner of corrections under authority of state law. In the agreement
 22 with the City of Whittier, the commissioner of corrections shall require that the city procure
 23 one or more private third-party operators through a competitive procurement process. The
 24 procurement requirements of this subsection are satisfied if the City of Whittier in exercising
 25 its powers under AS 29.35.010(15) for procurement of land, design, construction, and
 26 operation of a facility, follows its municipal ordinances and resolutions and procurement
 27 procedures.

28 (c) The authorization given by (a) of this section is subject to the following
 29 conditions:

- 30 (1) the agreement must cover a minimum of 1,200 prison beds, and, subject to
 31 (2) of this subsection, the payments by the Department of Corrections must be sufficient to

1 cover:

2 (A) a capital component consisting of the cost for the development and
3 constructions of the facility, including all debt service; and

4 (B) an operating component consisting of the operating costs based on
5 per diem operating charges for a minimum of 1,200 prison beds for a period of five
6 years from initial operation of the facility, less a reasonable adjustment for costs not
7 incurred until full occupancy;

8 (2) the agreement must provide that the obligation of the Department of
9 Corrections to make payments under the agreement is subject to annual appropriations of
10 funds by the legislature;

11 (3) the agreement must contain terms providing that the commissioner of
12 corrections may direct the City of Whittier, after notice and reasonable opportunity to cure, to
13 terminate its contract with a private third-party contractor operating the facility in accordance
14 with the provisions of (b) of this section, and to procure a replacement third-party contractor,
15 if the commissioner finds that the private third-party contractor has failed to provide or cause
16 to be provided the degree of custody, care, and discipline required by terms of the agreement
17 and that the private third-party contractor has been given notice and reasonable opportunity to
18 cure as provided in the third-party contractor's agreement with the City of Whittier;

19 (4) the commissioner's authority to enter into the agreement is subject to the
20 condition that the contract between the city and the operator requires the operator to provide
21 culturally relevant counseling services to incarcerated Alaska Natives.

22 (d) Nothing in this Act is intended to prevent the City of Whittier from issuing bonds
23 as permitted for municipalities under state law, including AS 29.47.390, to finance the
24 construction of the facility. The bonds may be secured by and payable from revenues of the
25 facility, including those described in (c) of this section. Revenues of the facility are not
26 revenues of the City of Whittier for purposes of AS 29.47.390.

27 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 **APPLICABILITY.** The provisions of AS 33.30.031(a) do not apply to an agreement
30 for correctional facility space and services in accordance with the provisions of sec. 2 of this
31 Act. This applicability section does not affect the authority of the commissioner of

- 1 corrections to designate the correctional facility to which a prisoner is assigned.
- 2 * **Sec. 4.** Sections 1 - 3, ch. 32, SLA 2001, are repealed.
- 3 * **Sec. 5.** This Act takes effect July 1, 2002.