

House Bill 413

By: Representatives Sims of the 167th, Murphy of the 18th, Walker of the 141st and Skipper of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,
2 so as to provide that no private corporation shall build or operate a detention facility without
3 authorization; to provide that no private corporation shall house out-of-state inmates in a
4 detention facility in this state; to provide legislative findings and declarations; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly hereby finds and declares that for the safety and welfare of its
9 citizens, the imposition of punishment on errant citizens through incarceration requires the
10 state to exercise its coercive police powers over individuals. The General Assembly further
11 finds that for the safety and welfare of its citizens, it is the duty of the state to regulate and
12 maintain oversight over all such incarceration in the state.

13 **SECTION 2.**

14 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
15 by adding at the end of Chapter 1, relating to general provisions applicable to penal
16 institutions, a new Code Section 42-1-13 to read as follows:

17 "42-1-13.

18 (a) As used in this Code section, the term:

19 (1) 'Detention facility' means a facility used for the confinement of a person charged with
20 or convicted of a crime, including but not limited to prisons, jails, immigration detention
21 centers, parole revocation centers, long-term and short-term youth detention centers, boot
22 camps, and probation detention centers.

23 (2) 'Preexisting contract' means an agreement that is made legally enforceable before
24 land acquisition or construction of a detention facility begins or the operation of a
25 detention facility is transferred from a government agency to a private entity.

- 1 (3) 'Private entity' means any individual, partnership, company, association, corporation,
2 development authority, or other legal entity other than a government agency or
3 department.
- 4 (b) A private entity shall not construct or operate a detention facility in this state without
5 a preexisting contract with the Department of Corrections or the Department of Juvenile
6 Justice.
- 7 (c) Except as otherwise provided in this Code section, no private entity shall construct,
8 expand, own, or operate any type of detention facility for the confinement of inmates
9 serving sentences for violations of laws of jurisdictions other than Georgia.
- 10 (d) The provisions of this Code section shall not apply to facilities owned and operated by
11 the federal government and used exclusively for the confinement of inmates serving
12 sentences for violation of federal law.
- 13 (e) Nothing in this Code section shall impair the obligation of any contract entered into
14 with a private entity prior to July 1, 2001, before the expiration or first renewal of such
15 contract. This Code section shall not alter or affect the operation of any existing interstate
16 compact or agreement between this state and any other state or the federal government, or
17 between any political subdivision of this state and any other state or the federal
18 government, regarding the detention and housing of inmates."

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SECTION 3.

20 All laws and parts of laws in conflict with this Act are repealed.