

REFERENCE TITLE: private prisons; contracts; prohibition

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2247**

Introduced by  
Representative De Los Santos

### **AN ACT**

REPEALING SECTION 41-1608, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-1608; AMENDING SECTION 41-1609, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-1609.01 AND 41-1609.02, ARIZONA REVISED STATUTES; RELATING TO THE STATE DEPARTMENT OF CORRECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 41-1608, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 41, chapter 11, article 1, Arizona Revised Statutes,  
5 is amended by adding a new section 41-1608, to read:

6 41-1608. Administration of correctional health care services;  
7 definition

8 A. NOTWITHSTANDING ANY OTHER LAW, BEGINNING FROM AND AFTER JUNE 30,  
9 2024, THE DEPARTMENT SHALL ADMINISTER ALL CORRECTIONAL HEALTH CARE  
10 SERVICES AND MAY NOT ENTER INTO A CONTRACT WITH A PRIVATE ENTITY TO  
11 ADMINISTER CORRECTIONAL HEALTH CARE SERVICES.

12 B. FOR THE PURPOSES OF THIS SECTION, "CORRECTIONAL HEALTH CARE  
13 SERVICES" INCLUDES ALL MEDICAL, MENTAL HEALTH AND DENTAL SERVICES THAT ARE  
14 PROVIDED TO A PRISONER WITHIN A STATE OWNED AND OPERATED FACILITY.

15 Sec. 3. Section 41-1609, Arizona Revised Statutes, is amended to  
16 read:

17 41-1609. Agreements with federal or private agencies and  
18 institutions; contract review; emergency contracts

19 A. The department may enter into agreements with the federal  
20 government, other states or agencies of the federal government or other  
21 states for such compensation ~~upon~~ ON which they agree to accept or deliver  
22 adult offenders or to administer correctional programs. Notwithstanding  
23 ~~the provisions of~~ section 35-193, any ~~funds~~ MONIES received by the  
24 department under the agreements shall be kept in a separate revolving fund  
25 for current usage and shall not revert to the state general fund if  
26 unexpended at the close of a fiscal year.

27 B. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO  
28 THIS SECTION, the department may NOT ENTER INTO A NEW contract with any  
29 private or public institution that is located inside or outside this state  
30 for facilities or the operation of facilities that are dedicated to the  
31 confinement of persons who are committed to the department.  
32 ~~Notwithstanding chapter 4, article 7 of this title and article 4 of this~~  
33 ~~chapter, the contract may include a purchase option and if the contract~~  
34 ~~has a per diem provision the contract may include a provision that allows~~  
35 ~~a portion of the per diem to be applied to reduce the purchase price.~~

36 ~~C. The department shall submit all contracts entered into pursuant~~  
37 ~~to subsection B of this section to the attorney general to determine if~~  
38 ~~the contract is within the authority granted under the laws of this state~~  
39 ~~and in proper form. All contracts involving the detention or~~  
40 ~~incarceration of adult offenders shall conform to the requirements of~~  
41 ~~section 41-1609.01.~~

42 ~~D.~~ C. Notwithstanding subsection ~~C~~ B of this section, the  
43 department may enter into emergency contracts pursuant to section 41-2537  
44 with private or public institutions for facilities or the operation of

1 facilities that are dedicated to the confinement of persons who are  
2 committed to the department.

3 ~~F.~~ D. The director may declare an emergency for acts of God,  
4 natural catastrophes, prison riots and overcrowding. In an emergency, the  
5 director shall:

6 1. Confine persons who are committed to the department in either of  
7 the following:

8 (a) An existing public institution.

9 (b) A private institution ~~that is described in subsection B of this~~  
10 ~~section.~~

11 2. Up to twenty-four hours before declaring the emergency, notify  
12 the governor and the attorney general of the emergency and the need to  
13 relocate persons who are committed to the department to another existing  
14 public or private facility ~~established pursuant to sections 41-1609.01 and~~  
15 ~~41-1609.02.~~

16 ~~3. Within thirty days after declaring the emergency, determine the~~  
17 ~~length of the emergency confinement. If the director determines that the~~  
18 ~~emergency confinement will exceed six months in duration, the emergency~~  
19 ~~contract shall comply with sections 41-1609.01 and 41-1609.02.~~

20 ~~F.~~ E. Notwithstanding subsection ~~F.~~ D, paragraph 2 of this  
21 section, if the director declares that an emergency exists due to the  
22 overcrowding of a public or private correctional facility, the director  
23 shall discuss with the governor, the attorney general and the majority and  
24 minority leadership in the senate and the house of representatives  
25 relocating the inmates from the overcrowded facility to another facility  
26 before relocating the inmates.

27 ~~G.~~ F. An emergency contract shall not exceed one year in duration.

28 Sec. 4. Repeal

29 Sections 41-1609.01 and 41-1609.02, Arizona Revised Statutes, are  
30 repealed.