



Rep. Kelly M. Cassidy

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10100HB2040ham001

LRB101 07762 SLF 57603 a

1 AMENDMENT TO HOUSE BILL 2040

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2040 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Private Detention Facility Moratorium Act.

6 Section 5. Legislative findings. The General Assembly  
7 finds and declares that the management and operation of any  
8 detention facility involves functions that are inherently  
9 governmental. Detention requires the exercise of coercive  
10 police powers over individuals that should not be delegated to  
11 the private sector and is distinguishable from privatization in  
12 other areas of government. It is further found that issues of  
13 liability, accountability, and cost warrant a prohibition of  
14 the ownership, operation or management of detention facilities  
15 by private contractors within the State to the fullest extent  
16 permitted under State law.

1 Section 10. Definitions. In this Act:

2 "Detention facility" means any building, facility, or  
3 structure used to detain persons in custody, not including  
4 State work release centers or juvenile or adult residential  
5 treatment facilities.

6 Section 15. Certain agreements and payments prohibited.  
7 Neither the State, nor any unit of local government, any county  
8 sheriff, or any agency, officer, employee, or agent thereof,  
9 shall:

10 (1) enter into an agreement of any kind related to the  
11 detention of individuals in a detention facility owned,  
12 managed, or operated in whole or in part by a private entity or  
13 person;

14 (2) pay, reimburse, subsidize, or defray in any way any  
15 costs related to the sale, purchase, construction,  
16 development, ownership, management, or operation, in whole or  
17 in part, of any detention facility by any private entity or  
18 person;

19 (3) receive per diem, per detainee, or any other payment  
20 related to the detention of individuals in a detention facility  
21 owned, managed, or operated, in whole or in part, by any  
22 private entity or person; or

23 (4) otherwise give any financial incentive or benefit to  
24 any private entity or person in connection with the sale,

1 purchase, construction, development, ownership, management, or  
2 operation of any detention facility.

3 Section 20. Exemptions. This Act does not prohibit the  
4 State or any unit of local government that owns, manages, or  
5 operates a detention facility from contracting with a private  
6 entity or person to provide ancillary services in that  
7 facility, such as medical services, food service, educational  
8 services, or facility repair or maintenance.

9 Section 25. Applicability. In case of any conflict between  
10 this Act and any other law, this Act shall control.

11 (730 ILCS 140/Act rep.)

12 Section 105. The Private Correctional Facility Moratorium  
13 Act is repealed.

14 Section 997. Severability. The provisions of this Act are  
15 severable under Section 1.31 of the Statute on Statutes.

16 Section 999. Effective date. This Act takes effect upon  
17 becoming law.".