



Rep. Kelly M. Cassidy

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10100HB2040ham002

LRB101 07762 SLF 58061 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
15 facilities by private contractors within the State to the
16 fullest extent 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 not including State work
4 release centers or juvenile or adult residential treatment
5 facilities.

6 Section 15. Certain agreements and incentives 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 Section 997. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law."