Introduced by Representative Wizowaty of Burlington

Referred to Committee on

Date:

Subject: Public institutions and corrections; out-of-state correctional facilities

Statement of purpose of bill as introduced: This bill proposes to prohibit the transfer of a Vermont inmate to a privately owned or operated out-of-state correctional facility unless living conditions at that facility meet or exceed those in Vermont.

An act relating to transferring inmates to out-of-state correctional facilities

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. POLICY

The General Assembly finds that it is a long-standing goal of the State of Vermont to decrease the use of out-of-state correctional facilities. Since 2009, the Department of Corrections has reduced the number of inmates placed in out-of-state facilities by almost 25 percent. The General Assembly commends the Department for its ongoing efforts, but recognizes that more work needs to be done to eliminate the need to send Vermont inmates to out-of-state facilities. The purpose of this bill is to provide a framework for first reducing and then eliminating the State’s reliance on out-of-state correctional facilities.
Sec. 2. 28 V.S.A. § 3 is amended to read:

§ 3. GENERAL DEFINITIONS

Whenever as used in this title:

* * *

(12) “Public correctional facility” means any building, enclosure, space, or structure of or supported by federal, state, or local government and used for confinement.

Sec. 3. PRIVATE CORRECTIONAL FACILITIES PROHIBITED

(a) As of July 1, 2014, all Vermont inmates shall be incarcerated in public correctional facilities as defined by 28 V.S.A. § 3.

(b) In anticipation of subsection (a) of this section, bids for contracts between the Department of Corrections and out-of-state facilities shall be:

(1) solicited from public correctional facilities that are accredited by both the American Correctional Association and the National Committee on Correctional Health Care; and

(2) disclosed to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions.
Sec. 4. 28 V.S.A. § 102 is amended to read:

§ 102. COMMISSIONER OF CORRECTIONS; APPOINTMENT; POWERS; RESPONSIBILITIES

* * *

(b) The commissioner is charged with the following powers:

* * *

(5) To order the assignment and transfer of persons committed to the custody of the commissioner to correctional facilities, including out-of-state public correctional facilities, as defined by section 3 of this title.

* * *

Sec. 5. 28 V.S.A. § 702a is added to read:

§ 702a. TRANSFER TO AN OUT-OF-STATE FACILITY

(a) The Department of Corrections shall maintain and continually update a record of the living conditions at each correctional facility located in the state, including the size of living and recreation space, the types of health care and other services, and the programming that is available. This record shall be reported annually to the Joint Committee on Corrections Oversight, the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the House and Senate Committees on Judiciary.

(b) The Commissioner of Corrections may transfer any inmate committed to his or her custody to an out-of-state public correctional facility, as defined
by section 3 of this title, provided that the Commissioner first determines that
the out-of-state public correctional facility meets or exceeds the standards
adopted in accordance with subsection (a) of this section of the in-state
correctional facility to which the inmate would otherwise have been assigned,
and that the out-of-state public correctional facility remains accredited by both
the American Correctional Association and the National Committee on
Correctional Health Care (“accreditation”).

(c) If the Commissioner determines that an out-of-state public correctional
facility housing Vermont inmates fails at any time to maintain its accreditation
or meet the standards adopted in accordance with subsection (a) of this section,
he or she shall transfer all Vermont inmates from that facility to a facility or
facilities that comply with the requirements of this section.

Sec. 6. REPORT

On or before September 15, 2013, the Department of Corrections shall
report to the Joint Committee on Corrections Oversight, the House and Senate
Committees on Judiciary, the House Committee on Corrections and
Institutions, and the Senate Committee on Institutions on how it will eliminate
all out-of-state placements within three years. This report may include plans
for reducing the number of nonviolent offenders in jail or replacing or
improving existing facilities. The Department shall include the estimated costs
and anticipated savings for each plan submitted.
Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2013, except Sec. 4 (Commissioner of Corrections; appointment; powers; responsibilities) of this act, which shall take effect on July 1, 2014.