

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 44
95TH GENERAL ASSEMBLY

0438L.07C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, and to enact in lieu thereof eight new sections relating to private jails, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 221.095, 221.097, 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, to read as follows:

221.095. 1. For the purposes of this section, "private jail" shall mean a facility not owned or operated by the state, a county, or a municipality that confines or detains prisoners who are awaiting trial, awaiting sentencing, or serving a sentence in a jail.

2. When any employee of a private jail or person assigned to work in a private jail has reasonable cause to believe that a felony has been committed on the premises of the private jail, he or she shall promptly, upon learning of the event, report the same to the supervisor on duty at the private jail.

3. The written report shall contain the name and address of the private jail, the name of the prisoner or person who may have committed the felony, information regarding the nature of the felony, the name of the complainant, and other information which might be relevant.

4. The administrator of the private jail shall, in a timely manner, refer all reports of felonies to local, state, or county law enforcement having jurisdiction over the area in which the private jail is located. The administrator and employees of the private jail shall cooperate with law enforcement in the investigation of the facts alleged in the report insofar as is consistent with the constitutional rights of all parties involved.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **5. In the event that a prisoner is missing, the private jail shall take prompt and**
18 **reasonable action to discover whether the prisoner has escaped. Upon learning that an**
19 **escape has occurred, the private jail shall promptly notify the police department of the**
20 **municipality, if any, in which the escape occurred and shall promptly notify the sheriff's**
21 **department of the county in which the escape occurred and the Missouri state highway**
22 **patrol. The private jail shall provide to the law enforcement agencies all available**
23 **information known about the escape and the escapee.**

24 **6. It shall be an infraction, subject to a civil penalty of not less than one hundred**
25 **dollars nor more than one thousand dollars, for any person described in subsection 2 of**
26 **this section to willfully fail to make a report required by subsection 2 of this section or for**
27 **any person or company operating a private jail to willfully fail to make a report required**
28 **by subsection 4 or 5 of this section. The action to recover such penalty shall be a civil**
29 **action brought by the county attorney in the name of the county where the report was**
30 **required to be made.**

31 **7. Any person who makes a report under this section or who testifies in any**
32 **administrative or judicial proceeding arising from the report shall be immune from any**
33 **civil or criminal liability for making such a report or for testifying, except for liability for**
34 **perjury, unless such person acted with malice.**

221.097. 1. Persons confined in private jails shall be separated and confined
2 **according to gender. Persons confined under civil process or for civil causes, except those**
3 **persons confined awaiting a determination on whether probation or parole will be revoked**
4 **or continued, shall be kept separate from persons confined awaiting trial for criminal**
5 **charges, awaiting sentencing for criminal charges, awaiting determination on whether**
6 **probation or parole will be revoked or continued, or serving a sentence on a criminal**
7 **investigation.**

8 **2. The administrator shall arrange for necessary health care services for persons**
9 **confined in the private jail.**

10 **3. The administrator shall ensure that persons confined in the private jail have**
11 **adequate clothing, food, and bedding. Deprivation of adequate clothing, food, or bedding**
12 **shall not be used as a disciplinary action against any confined person.**

13 **4. No person confined in a private jail shall be used in any manner for the profit,**
14 **betterment, or personal gain of any employee of the county or of any employee of the**
15 **private jail.**

16 **5. Nothing in section 221.095, and this section, except for the provisions of**
17 **subsection 6 of section 221.095, shall create any new civil cause of action under Missouri**

18 law nor shall it be interpreted so as to conflict with the civil rights and constitutional rights
19 of due process accorded to any person in any investigation of a crime or potential crime.

20 **6. Any investigation of a report made under subsection 2 or 4 of this section shall**
21 **be concluded in a timely manner by law enforcement and a written report of the**
22 **conclusions shall be provided to the private jail.**

23 **7. Nothing in section 221.095, and this section shall be construed to grant to any law**
24 **enforcement agency or officer any power to inspect, control, or direct the operations of a**
25 **private jail nor to make reports or recommendations regarding the operations of a private**
26 **jail.**

221.111. 1. No person shall knowingly deliver, attempt to deliver, have in such person's
2 possession, deposit or conceal in or about the premises of any county **or private** jail or other
3 county correctional facility:

4 (1) Any controlled substance as that term is defined by law, except upon the written
5 prescription of a licensed physician, dentist, or veterinarian;

6 (2) Any other alkaloid of any kind or any spiritous or malt liquor;

7 (3) Any article or item of personal property which a prisoner is prohibited by law or rule
8 made pursuant to section 221.060 from receiving or possessing, except as herein provided;

9 (4) Any gun, knife, weapon, or other article or item of personal property that may be
10 used in such manner as to endanger the safety or security of the institution or as to endanger the
11 life or limb of any prisoner or employee thereof.

12 2. The violation of subdivision (1) of subsection 1 of this section shall be a class C
13 felony; the violation of subdivision (2) of this section shall be a class D felony; the violation of
14 subdivision (3) of this section shall be a class A misdemeanor; and the violation of subdivision
15 (4) of this section shall be a class B felony.

16 3. The chief operating officer of a county jail or other county correctional facility **or the**
17 **administrator of a private jail** may deny visitation privileges to or refer to the county
18 prosecuting attorney for prosecution any person who knowingly delivers, attempts to deliver, has
19 in such person's possession, deposits or conceals in or about the premises of such jail or facility
20 any personal item which is prohibited by rule or regulation of such jail or facility. Such rules or
21 regulations, including a list of personal items allowed in the jail or facility, shall be prominently
22 posted for viewing both inside and outside such jail or facility in an area accessible to any visitor,
23 and shall be made available to any person requesting such rule or regulation. Violation of this
24 subsection shall be an infraction if not covered by other statutes.

221.353. 1. A person commits the crime of damage to jail property if such person
2 knowingly damages any city [or] , county, **or private** jail building or other jail property.

3 2. A person commits the crime of damage to jail property if such person knowingly starts
4 a fire in any city [or] , county, **or private** jail building or other jail property.

5 3. Damage to jail property is a class D felony.

221.510. 1. Every chief law enforcement official, sheriff, jailer, **administrator of a**
2 **private jail**, department of corrections official and regional jail district official shall conduct an
3 inquiry of pending outstanding warrants for misdemeanors and felonies through the Missouri
4 Uniform Law Enforcement System (MULES) and the National Crime Information Center
5 (NCIC) System on all prisoners about to be released, whether convicted of a crime or being held
6 on suspicion of charges.

7 2. No prisoner, whether convicted of a crime or being held on suspicion of any charge,
8 shall be released or transferred from a correctional facility or jail to any other facility prior to
9 having a local, state or federal warrant check conducted by a law enforcement official, sheriff
10 [or] , authorized member of a correctional facility or jail, **or administrator of a private jail**.

11 3. If any prisoner warrant check indicates outstanding charges or outstanding warrants
12 from another jurisdiction, it shall be the duty of the official conducting the warrant check to
13 inform the agency that issued the warrant that the correctional facility or jail has such prisoner
14 in custody. That prisoner shall not be released except to the custody of the jurisdictional
15 authority that had issued the warrant, unless the warrant has been satisfied or dismissed, or unless
16 the warrant issuing agency has notified the correctional facility or jail holding the prisoner that
17 the agency does not wish the prisoner to be transferred or the warrant to be pursued.

18 4. If any person has actual knowledge that a violation of this section is occurring or has
19 occurred, such person may report the information to the attorney general of the state of Missouri,
20 who may appoint a sheriff of another county to investigate the report.

21 5. If a law enforcement official, sheriff [or] , authorized member of the correctional
22 facility or jail, **or administrator of a private jail** purposely fails to perform a warrant check
23 with the intent to release a prisoner with outstanding warrants and which results in the release
24 of a prisoner with outstanding warrants, that individual shall be guilty of a class A misdemeanor.

25 6. A law enforcement official, sheriff [or] , authorized member of the correctional facility
26 or jail, **or administrator of a private jail** shall not be deemed to have purposely failed to
27 perform a warrant check with the intent to release a prisoner in violation of this section, if he or
28 she is unable to complete the warrant check because the MULES or NCIC computer systems
29 were not accessible.

575.210. 1. A person commits the crime of escape or attempted escape from
2 confinement if, while being held in confinement after arrest for any crime, while serving a
3 sentence after conviction for any crime, or while at an institutional treatment center operated by

4 the department of corrections as a condition of probation or parole, [he] **such person** escapes or
5 attempts to escape from confinement.

6 2. Escape or attempted escape from confinement in the department of corrections is a
7 class B felony.

8 3. Escape or attempted escape from confinement in a county or **private jail or city or**
9 **county** correctional facility is a class D felony except that it is:

10 (1) A class A felony if it is effected or attempted by means of a deadly weapon or
11 dangerous instrument or by holding any person as hostage;

12 (2) A class C felony if the escape or attempted escape is facilitated by striking or beating
13 any person.

575.220. 1. A person commits the crime of failure to return to confinement if, while
2 serving a sentence for any crime under a work-release program, or while under sentence of any
3 crime to serve a term of confinement which is not continuous, or while serving any other type
4 of sentence for any crime wherein he **or she** is temporarily permitted to go at large without
5 guard, he **or she** purposely fails to return to confinement when he **or she** is required to do so.

6 2. This section does not apply to persons who are free on bond, bail or recognizance,
7 personal or otherwise, nor to persons who are on probation or parole, temporary or otherwise.

8 3. Failure to return to confinement is a class C misdemeanor unless:

9 (1) The sentence being served is to the Missouri department of corrections and human
10 resources, in which case failure to return to confinement is a class D felony; or

11 (2) The sentence being served is one of confinement in a county **or private jail** on
12 conviction of a felony, in which case failure to return to confinement is a class A misdemeanor.

575.240. 1. A public servant, **contract employee of a county or private jail, or**
2 **employee of a private jail**, who is authorized and required by law to have charge of any person
3 charged with or convicted of any crime commits the crime of permitting escape if he knowingly:

4 (1) Suffers, allows or permits any deadly weapon or dangerous instrument, or anything
5 adapted or designed for use in making an escape, to be introduced into or allowed to remain in
6 any place of confinement, in violation of law, regulations or rules governing the operation of the
7 place of confinement; or

8 (2) Suffers, allows or permits a person in custody or confinement to escape.

9 2. Permitting escape by suffering, allowing or permitting any deadly weapon or
10 dangerous instrument to be introduced into a place of confinement is a class B felony; otherwise,
11 permitting escape is a class D felony.

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