(Added Pub. L. 89–554, § 3(f), Sept. 6, 1966, 80 Stat. 610.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 341g.	July 28, 1950, ch. 503, § 8, 64 Stat. 381.

§ 4012. Summary seizure and forfeiture of prison contraband

An officer or employee of the Bureau of Prisons may, pursuant to rules and regulations of the Director of the Bureau of Prisons, summarily seize any object introduced into a Federal penal or correctional facility or possessed by an inmate of such a facility in violation of a rule, regulation or order promulgated by the Director, and such object shall be forfeited to the United States.

(Added Pub. L. 98–473, title II, § 1109(d), Oct. 12, 1984, 98 Stat. 2148.)

§ 4013. Support of United States prisoners in non-Federal institutions

(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated for Federal prisoner detention for—

(1) necessary clothing;

(2) medical care and necessary guard hire; and

(3) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities.

(b) The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

(1) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

(2) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

(3) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.

(c)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

(A) the number of Federal detainees in the district; and

(B) the availability of appropriate Federal, State, and local government detention facilities.

(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshals pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

(B) meet the standards of the American Correctional Association;

(C) comply with all applicable State and local laws and regulations;

(D) have approved fire, security, escape, and riot plans; and

(E) comply with any other regulations that the Marshals Service deems appropriate.

(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).

(d) HEALTH CARE FEES FOR FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.—

(1) IN GENERAL.—Notwithstanding amounts paid under subsection (a)(3), a State or local government may assess and collect a reasonable fee from the trust fund account (or institutional equivalent) of a Federal prisoner for health care services, if—

(A) the prisoner is confined in a non-Federal institution pursuant to an agreement between the Federal Government and the State or local government;

(B) the fee—

(i) is authorized under State law; and

(ii) does not exceed the amount collected from State or local prisoners for the same services; and

(C) the services—

(i) are provided within or outside of the institution by a person who is licensed or certified under State law to provide health care services and who is operating within the scope of such license;

(ii) constitute a health care visit within the meaning of section 4048(a)(4) of this title; and

(iii) are not preventative health care services, emergency services, prenatal care, diagnosis or treatment of chronic infectious diseases, mental health care, or substance abuse treatment.

(2) NO REFUSAL OF TREATMENT FOR FINANCIAL REASONS.—Nothing in this subsection may be construed to permit any refusal of treatment to a prisoner on the basis that—

(A) the account of the prisoner is insolvent; or

(B) the prisoner is otherwise unable to pay a fee assessed under this subsection.

(3) NOTICE TO PRISONERS OF LAW.—Each person who is or becomes a prisoner shall be provided with written and oral notices of the provisions of this subsection and the applicability

of this subsection to the prisoner. Notwithstanding any other provision of this subsection, a fee under this section may not be assessed against, or collected from, such person—

(A) until the expiration of the 30-day period beginning on the date on which each prisoner in the prison system is provided with such notices; and

(B) for services provided before the expiration of such period.

(4) NOTICE TO PRISONERS OF STATE OR LOCAL IMPLEMENTATION.—The implementation of this subsection by the State or local government, and any amendment to that implementation, shall not take effect until the expiration of the 30-day period beginning on the date on which each prisoner in the prison system is provided with written and oral notices of the provisions of that implementation (or amendment, as the case may be). A fee under this subsection may not be assessed against, or collected from, a prisoner pursuant to such implementation (or amendments, as the case may be) for services provided before the expiration of such period.

(5) NOTICE BEFORE PUBLIC COMMENT PERIOD.—Before the beginning of any period a proposed implementation under this subsection is open to public comment, written and oral notice of the provisions of that proposed implementation shall be provided to groups that advocate on behalf of Federal prisoners and to each prisoner subject to such proposed implementation.

(6) COMPREHENSIVE HIV/AIDS SERVICES REQUIRED.—Any State or local government assessing or collecting a fee under this subsection shall provide comprehensive coverage for services relating to human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) to each Federal prisoner in the custody of such State or local government when medically appropriate. The State or local government may not assess or collect a fee under this subsection for providing such coverage.

(Added Pub. L. 100–690, title VII, §7608(d)(1), Nov. 18, 1988, 102 Stat. 4516; amended Pub. L. 101–647, title XVII, §1701, title XXXV, §3599, Nov. 29, 1990, 104 Stat. 4843, 4931; Pub. L. 103–322, title XXXIII, §330011(*o*), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 106–294, §3, Oct. 12, 2000, 114 Stat. 1040; Pub. L. 107–273, div. A, title III, §302(2), Nov. 2, 2002, 116 Stat. 1781.)

Editorial Notes

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273, §302(2)(A), in introductory provisions, substituted ''Federal prisoner detention'' for ''the support of United States prisoners'', inserted ''and'' at end of par. (2), substituted period for ''; and'' at end of par. (3), and in introductory provisions of par. (4), inserted ''The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for'' before ''entering''.

Subsecs. (a)(4), (b). Pub. L. 107–273, §302(2)(B)(ii), redesignated par. (4) of subsec. (a) as subsec. (b) and subpars. (A) to (C) as pars. (1) to (3), respectively. Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 107–273, §302(2)(B)(i), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

2000—Subsec. (c). Pub. L. 106–294 added subsec. (c).

1994—Pub. L. 103–322, §330011(*o*), repealed Pub. L. 101–647, §3599. See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101–647, §3599, which struck out ''(a)'' at beginning of text, was repealed by Pub. L. 103–322, §330011(*o*).

Subsec. (b). Pub. L. 101–647, §1701, added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–322, title XXXIII, §330011(*o*), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by section 330011(*o*) is effective Nov. 29, 1990.

CONTRACTS FOR SPACE OR FACILITIES

Pub. L. 106–553, §1(a)(2) [title I, §118, formerly §119], Dec. 21, 2000, 114 Stat. 2762, 2762A–69; renumbered §118, Pub. L. 106–554, §1(a)(4) [div. A, §213(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–179, provided that: ''Notwithstanding any other provision of law, including section 4(d) of the Service Contract Act of 1965 ([former] 41 U.S.C. 353(d)) [now 41 U.S.C. 6707(d)], the Attorney General hereafter may enter into contracts and other agreements, of any reasonable duration, for detention or incarceration space or facilities, including related services, on any reasonable basis.''

JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM FUND, UNITED STATES MARSHALS SERVICE

Pub. L. 106–553, §1(a)(2) [title I], Dec. 21, 2000, 114 Stat. 2762, 2762A–55, provided in part that: ''Beginning in fiscal year 2000 and thereafter, payment shall be made from the Justice Prisoner and Alien Transportation System Fund for necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed 10 years.''

Similar provisions were contained in the following prior appropriations act:

Pub. L. 106–113, div. B, §1000(a)(1) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–7.

Pub. L. 105–277, div. A, §101(b) [title I], Oct. 21, 1998, 112 Stat. 2681–50, 2681–54, provided that: ''There is hereby established a Justice Prisoner and Alien Transportation System Fund for the payment of necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund air-

craft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed 5 years.''

Executive Documents

EX. ORD. NO. 14006. REFORMING OUR INCARCERATION SYSTEM TO ELIMINATE THE USE OF PRIVATELY OPERATED CRIMINAL DETENTION FACILITIES

Ex. Ord. No. 14006, Jan. 26, 2021, 86 F.R. 7483, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. More than two million people are currently incarcerated in the United States, including a disproportionate number of people of color. There is broad consensus that our current system of mass incarceration imposes significant costs and hardships on our society and communities and does not make us safer. To decrease incarceration levels, we must reduce profit-based incentives to incarcerate by phasing out the Federal Government's reliance on privately operated criminal detention facilities.

We must ensure that our Nation's incarceration and correctional systems are prioritizing rehabilitation and redemption. Incarcerated individuals should be given a fair chance to fully reintegrate into their communities, including by participating in programming tailored to earning a good living, securing affordable housing, and participating in our democracy as our fellow citizens. However, privately operated criminal detention facilities consistently underperform Federal facilities with respect to correctional services, programs, and resources. We should ensure that time in prison prepares individuals for the next chapter of their lives.

The Federal Government also has a responsibility to ensure the safe and humane treatment of those in the Federal criminal justice system. However, as the Department of Justice's Office of Inspector General found in 2016, privately operated criminal detention facilities do not maintain the same levels of safety and security for people in the Federal criminal justice system or for correctional staff. We have a duty to provide these individuals with safe working and living conditions.

SEC. 2. *Contracts with Privately Operated Criminal Detention Facilities*. The Attorney General shall not renew Department of Justice contracts with privately operated criminal detention facilities, as consistent with applicable law.

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§ 4014. Testing for human immunodeficiency virus

(a) The Attorney General shall cause each individual convicted of a Federal offense who is sentenced to incarceration for a period of 6 months or more to be tested for the presence of the human immunodeficiency virus, as appropriate, after the commencement of that incarceration, if such individual is determined to be at risk for infection with such virus in accordance with the guidelines issued by the Bureau of Prisons relating to infectious disease management.

(b) If the Attorney General has a well-founded reason to believe that a person sentenced to a term of imprisonment for a Federal offense, or ordered detained before trial under section 3142(e), may have intentionally or unintentionally transmitted the human immunodeficiency virus to any officer or employee of the United States, or to any person lawfully present in a correctional facility who is not incarcerated there, the Attorney General shall—

(1) cause the person who may have transmitted the virus to be tested promptly for the presence of such virus and communicate the test results to the person tested; and

(2) consistent with the guidelines issued by the Bureau of Prisons relating to infectious disease management, inform any person (in, as appropriate, confidential consultation with the person's physician) who may have been exposed to such virus, of the potential risk involved and, if warranted by the circumstances, that prophylactic or other treatment should be considered.

(c) If the results of a test under subsection (a) or (b) indicate the presence of the human immunodeficiency virus, the Attorney General shall provide appropriate access for counselling, health care, and support services to the affected officer, employee, or other person, and to the person tested.

(d) The results of a test under this section are inadmissible against the person tested in any Federal or State civil or criminal case or proceeding.

(e) Not later than 1 year after the date of the enactment of this section, the Attorney General shall issue rules to implement this section. Such rules shall require that the results of any test are communicated only to the person tested, and, if the results of the test indicate the presence of the virus, to correctional facility personnel consistent with guidelines issued by the Bureau of Prisons. Such rules shall also provide for procedures designed to protect the privacy of a person requesting that the test be performed and the privacy of the person tested.

(Added Pub. L. 105–370, § 2(a), Nov. 12, 1998, 112 Stat. 3374.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 105–370, which was approved Nov. 12, 1998.

CHAPTER 303—BUREAU OF PRISONS