

# California bans private prisons – including Ice detention centers

Bill removes profit motive from incarceration and marks latest clash in state's battle with Trump over treatment of immigrants

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Immigrant detainees eat lunch at the Adelanto detention facility in 2013 in Adelanto, California. Photograph: John Moore/Getty Images

The private prison industry is set to be upended after California lawmakers passed a bill on Wednesday banning the facilities from operating in the state. The move will probably also close down four large immigration detention facilities that can hold up to 4,500 people at a time.

The legislation is being hailed as a major victory for criminal justice reform because it removes the profit motive from incarceration. It also marks a dramatic departure from California's past, when private prisons were relied on to reduce crowding in state-run facilities.

Private prison companies used to view California as one of their fastest-growing markets. As recently as 2016, private prisons locked up approximately 7,000 Californians, about 5% of the state's total prison population, according to the federal Bureau of Justice Statistics. But in recent years, thousands of inmates have been transferred from private prisons back into state-run facilities. As of June, private prisons held 2,222 of California's total inmate population.

The state's governor, Gavin Newsom, must still sign AB32, but last year he signaled support for the ban and said during his inaugural speech in January that the state should "end the outrage of private prisons once and for all".

Currently, one company, the Geo Group, operates four private prisons in California under contract with the California department of corrections and rehabilitation. The contracts for these four prisons expire in 2023 and cannot be renewed under AB32, except to comply with a federal court order to reduce crowding in state-run facilities.

In addition to signaling a major criminal justice reform, AB32 also has become a flashpoint in California's fight with the Trump administration over the treatment of immigrants.

The bill's author, the assemblymember Rob Bonta, originally wrote it only to apply to contracts between the state's prison authority and private, for-profit prison companies. But in June, Bonta amended the bill to apply to the Immigration and Customs Enforcement agency's four major California detention centers.

Bonta's amendment, say immigrant rights advocates, appears to have caught Immigrations and Customs Enforcement (Ice) and the private prison companies at a moment when their current contracts are expiring. The result is that instead of slowly phasing out immigration detention centers as their existing contracts expire years down the road, most will face closure next year – unless Ice and its private prison contractors find a workaround.

"I think Geo Group is realizing their scheme to circumvent state law is putting them in a place where they could end up being be nailed," said Hamid Yazdan Panah, an immigration attorney and the regional director for the Northern California Rapid Response & Immigrant Defense Network.

Two of Ice's largest immigrant detention centers in California are operated by the Geo Group through complicated contracts that use cities as middlemen.

The city of Adelanto signed an agreement in 2011 with ICE to hold up to 1,300 immigrant detainees

facing deportation. Adelanto then subcontracted the prison operations to Geo Group.

“What Ice does is they locate in these very poor and remote areas,” said Lizbeth Abeln, of the Inland Coalition for Immigrant Justice. “The private prison comes in and lobbies and promises jobs, and tax money.”

According to a report by the California state auditor, this complicated subcontracting model allowed Ice and Adelanto to forgo competitive bidding for the center’s operations subcontract.

A similar process unfolded just north of Bakersfield in McFarland, where in 2015 the city agreed to serve as the middleman for the Geo Group, which operates the 400-bed Mesa Verde detention facility.

Geo Group expanded the Adelanto center in 2015 to 1,940 beds, making it the second-largest adult detention center in the country, and with the Trump administration’s crackdown against undocumented immigrants, another 1,000-bed expansion is planned.

Last year, Geo Group reportedly sought to purchase property in Bakersfield for a major expansion of Mesa Verde.

But these complicated contracts were outlawed last year. Under the state Dignity Not Detention Act, cities and counties, including Adelanto and McFarland, were barred from signing new agreements with Ice or amending existing contracts to permit expansion.

An immigrant detainee reads through paperwork in a general population block at the Adelanto detention facility. Photograph: John Moore/Getty Images

“To expand their detention center, Geo Group and Ice would have to cut their ties with the city of Adelanto,” said Jose Servin, the communications coordinator of the California Immigrant Youth Justice Alliance.

Geo Group asked both cities to break off their Ice contracts and the cities agreed. Ice then provided Geo Group with temporary contracts to operate Adelanto and Mesa Verde. Both agreements expire next March, after AB32 is expected to go into effect.

“My understanding is AB32 would prevent new contracts for these facilities,” said Panah. “The fact they’re on a one-year bridge, it won’t allow them to move from the one-year contract to a longer-term contract.”

Ice declined to answer any questions about how AB32 affects its detention center contracts.

CoreCivic operates the Otay Mesa detention center in San Diego under a direct contract with Ice and is building a 512-bed expansion to house immigrant detainees, according to Securities and Exchange Commission filings. But its Ice contract expires in June 2020.

“When California’s prison system capacity was at 200% and conditions were so challenging as to be deemed unconstitutional, companies like ours were one of the solutions the state turned to,” said Brandon Bissel, a CoreCivic spokesperson.

In recent years, contracts with California’s prison authority have amounted to as much as 12% of CoreCivic’s total revenue, more than any other state prison authority in the US, according to SEC filings.

CoreCivic and Geo Group spent \$130,000 during the first six months of this year lobbying the legislature and governor against AB32.

On 6 September, AB32 was amended to allow Geo Group, CoreCivic and other for-profit prison companies to continue operating after 2020, but only to help the state comply with a court-ordered prison population cap.

Otherwise, the use of private prisons for state inmates is to be fully phased out by 2028.

Immigration advocates still worry that Ice and its contractors could find a way to circumvent the ban.

“This legislation is the most powerful we’ve had. It’s a very big step,” said Abeln about AB32. “But we know Geo Group and Ice work in secrecy, and they work to circumvent contract laws, so we’re still monitoring things.”

Servin said that while the new law was a significant victory, there was one other thing immigrants rights groups were concerned about. When several sheriffs’ departments canceled their contracts to house Ice detainees last year, instead of freeing the detainees, Ice moved many of them to prisons in Colorado and Hawaii.

“We have to worry about all the people who are detained right now,” said Servine. “Where will they end up?”