

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0172.01 Jane Ritter x4342

HOUSE BILL 20-1267

HOUSE SPONSORSHIP

Tipper,

SENATE SPONSORSHIP

Gonzales,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TRANSPARENCY OF PENAL TELECOMMUNICATIONS**
102 **SERVICE PROVIDERS IN JAILS, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires telecommunication service providers (providers) who provide telecommunication services (services) to jails and other correctional facilities (jails) to maintain data and records (data) related to the services provided to jails. The bill requires providers to submit the data and a report on the services provided to the public utilities

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
March 6, 2020

commission (commission) on a quarterly basis. The commission is required to publish the data and report on its website in a format accessible by the public.

Current law exempts providers and the services provided from oversight by the commission. The bill grants the commission authority over providers and the services provided.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 17-42-103 as
3 follows:

4 **17-42-103. Policies concerning inmates' use of telephones -**
5 **excessive rates prohibited - transparency of telecommunications**
6 **services in correctional facilities - definitions.** (1) In administering the
7 use of telephones by inmates in any state or private prison facility, the
8 department shall not receive any commission from the phone provider
9 except as much as is necessary to pay for calling costs and the direct and
10 indirect costs incurred by the department in managing the calling system.
11 For the purposes of this ~~provision~~ SUBSECTION (1), "direct and indirect
12 costs incurred by the department in managing the calling system" includes
13 costs related to the provision of security and monitoring systems by either
14 the department or the phone provider.

15 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (a) "COMMISSION" MEANS ANY FORM OF MONETARY PAYMENT,
18 IN-KIND **PAYMENT**, GIFT, EXCHANGE OF SERVICES OR GOODS, FEE, OR
19 TECHNOLOGY ALLOWANCE PAID TO A JAIL OR **OTHER GOVERNMENT ENTITY**
20 **BY A PENAL TELECOMMUNICATIONS SERVICE PROVIDER.**

21 (b) "FEE" MEANS ANY AMOUNT OF MONEY CHARGED TO A PERSON
22 FOR THE USE OF **PENAL TELECOMMUNICATIONS SERVICES** IN ADDITION TO

1 RATES. A FEE INCLUDES EXTRA CHARGES FOR INITIATING A CALL, OPENING
2 AN ACCOUNT, HAVING AN ACCOUNT, FUNDING AN ACCOUNT, INACTIVITY,
3 CLOSING AN ACCOUNT, GETTING A REFUND, OR RECEIVING A PAPER BILL.

4 (c) "JAIL" MEANS ANY BUILDING, STRUCTURE, ENCLOSURE,
5 INSTITUTION, OR PLACE, WHETHER PERMANENT OR TEMPORARY, FIXED OR
6 MOBILE, WHERE PERSONS ARE OR MAY BE LAWFULLY HELD IN CUSTODY OR
7 CONFINED AND THAT IS OPERATED BY A CITY, COUNTY, OR CITY AND
8 COUNTY.

9 (d) "PENAL TELECOMMUNICATIONS SERVICE PROVIDER" MEANS A
10 TELECOMMUNICATIONS SERVICE PROVIDER THAT CONTRACTS WITH A
11 GOVERNMENT ENTITY TO PROVIDE TELECOMMUNICATIONS SERVICES TO A
12 JAIL, INCLUDING TELEPHONE SERVICES, ELECTRONIC MAILING AND
13 MESSAGING SERVICES, VIDEO VISITATION SERVICES, AND ANY OTHER
14 TECHNOLOGY THAT IS MADE AVAILABLE TO PERSONS IN CUSTODY TO
15 FACILITATE COMMUNICATION WITH PERSONS OUTSIDE OF CUSTODY.

16 (e) "QUARTER" MEANS THE PERIOD OF TIME BETWEEN THE
17 REPORTING DATES OF JANUARY 1, APRIL 1, JULY 1, AND OCTOBER 1 OF
18 EACH YEAR.

19 (f) "RATE" MEANS ANY PREDETERMINED PER MINUTE COST SET BY
20 THE PENAL TELECOMMUNICATIONS SERVICE PROVIDER FOR THE USE OF
21 PENAL TELECOMMUNICATIONS SERVICES.

22 (g) "REVENUE" MEANS THE MONEY COLLECTED FROM USERS OF
23 TELECOMMUNICATIONS SERVICES.

24 (h) "UNDERLYING CARRIER" MEANS A TELECOMMUNICATIONS
25 SERVICE PROVIDER THAT CONTRACTS WITH A PENAL
26 TELECOMMUNICATIONS SERVICE PROVIDER THAT HAS ENTERED INTO A
27 CONTRACT TO PROVIDE TELECOMMUNICATIONS SERVICES TO A JAIL.

1 (3) (a) EACH PENAL TELECOMMUNICATIONS SERVICE PROVIDER
2 SHALL MAINTAIN THE RECORDS AND DATA SPECIFIED IN THIS SUBSECTION
3 (3)(a) FOR EACH JAIL TO WHICH IT PROVIDES PENAL TELECOMMUNICATION
4 SERVICES. A TELECOMMUNICATIONS SERVICE PROVIDER THAT SERVES AS
5 AN UNDERLYING CARRIER IS NOT REQUIRED TO MAINTAIN OR PRODUCE THE
6 RECORDS AND DATA SPECIFIED IN THIS SUBSECTION (3)(a). ON OR BEFORE
7 JANUARY 1, 2021, EACH PENAL TELECOMMUNICATIONS SERVICE PROVIDER
8 SHALL SUBMIT SUCH RECORDS AND DATA IN A REPORT TO THE PUBLIC
9 UTILITIES COMMISSION WITHIN FOURTEEN DAYS AFTER THE END OF EACH
10 QUARTER. EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION,
11 THE QUARTERLY REPORTS SUBMITTED PURSUANT TO THIS SUBSECTION
12 (3)(a) MUST INCLUDE:

13 (I) A COPY OF THE EXISTING CONTRACT BETWEEN THE PENAL
14 TELECOMMUNICATIONS SERVICE PROVIDER AND THE GOVERNMENT ENTITY
15 TO PROVIDE PENAL TELECOMMUNICATIONS SERVICES TO PERSONS IN
16 CUSTODY IN A JAIL;

17 (II) THE TOTAL NUMBER OF CALLS MADE FROM THE JAIL USING THE
18 SERVICE;

19 (III) THE TOTAL MINUTES FOR CALLS MADE FROM THE JAIL USING
20 THE SERVICE;

21 (IV) THE REVENUE COLLECTED BY THE PENAL
22 TELECOMMUNICATIONS SERVICE PROVIDER FOR THE PROVISION OF THE
23 SERVICES;

24 (V) A SUMMARY OF ALL COMMISSIONS PAID TO THE JAIL OR ANY
25 OTHER GOVERNMENT ENTITY BY THE PENAL TELECOMMUNICATIONS
26 SERVICE PROVIDER;

27 (VI) A COPY OF THE PENAL TELECOMMUNICATIONS SERVICE

1 PROVIDER'S UNCLAIMED FUNDS POLICY;

2 (VII) THE RATES CHARGED BY THE PENAL TELECOMMUNICATIONS
3 SERVICE PROVIDER TO PERSONS IN CUSTODY MAKING TELEPHONE CALLS
4 TO PERSONS OUT OF CUSTODY, INCLUDING ANY RATES CHARGED FOR:

5 (A) THE FIRST MINUTE OF AN IN-STATE CALL;

6 (B) MINUTES SUBSEQUENT TO THE FIRST MINUTE OF AN IN-STATE
7 CALL;

8 (C) THE FIRST MINUTE OF AN OUT-OF-STATE CALL; AND

9 (D) MINUTES SUBSEQUENT TO THE FIRST MINUTE OF AN
10 OUT-OF-STATE CALL; AND

11 (VIII) ALL FEES CHARGED TO PERSONS IN CUSTODY MAKING
12 TELEPHONE CALLS TO PERSONS OUT OF CUSTODY, INCLUDING FEES
13 CHARGED TO:

14 (A) INITIATE A CALL;

15 (B) DEPOSIT MONEY INTO THE INCARCERATED PERSON'S ACCOUNT
16 FOR TELECOMMUNICATION SERVICES;

17 (C) OPEN, MAINTAIN, FUND, OR CLOSE AN ACCOUNT WITH A PENAL
18 TELECOMMUNICATIONS SERVICE PROVIDER;

19 (D) RECEIVE A REFUND FROM A PENAL TELECOMMUNICATIONS
20 SERVICE PROVIDER;

21 (E) RECEIVE A PAPER BILL FROM A PENAL TELECOMMUNICATIONS
22 SERVICE PROVIDER; AND

23 (F) MAKE PAYMENTS TO THE PENAL TELECOMMUNICATIONS
24 SERVICE PROVIDER THROUGH A THIRD-PARTY COMPANY.

25 (b) A PENAL TELECOMMUNICATIONS SERVICE PROVIDER IS NOT
26 OBLIGATED TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH THE
27 RECORDS AND DATA REQUIRED BY SUBSECTION (3)(a) OF THIS SECTION IF

1 SUCH RECORDS AND DATA HAVE NOT CHANGED SINCE THE REPORT
2 SUBMITTED IN THE PREVIOUS QUARTER.

3 (4) NO LATER THAN THIRTY DAYS AFTER RECEIPT OF THE
4 INFORMATION REQUIRED BY SUBSECTION (3) OF THIS SECTION, THE PUBLIC
5 UTILITIES COMMISSION SHALL PUBLISH SUCH INFORMATION ON ITS WEBSITE
6 IN A FORMAT THAT IS ACCESSIBLE BY THE PUBLIC.

7 **SECTION 2.** In Colorado Revised Statutes, 40-1-103, **amend**
8 (1)(b) introductory portion; and **repeal** (1)(b)(VI) as follows:

9 **40-1-103. Public utility defined.** (1) (b) Nothing in articles 1 to
10 7 of this ~~title shall be construed to~~ TITLE 40 apply to:

11 (VI) ~~Providers of telephone or telecommunications service from~~
12 ~~inmates at penal institutions.~~

13 **SECTION 3.** In Colorado Revised Statutes, 40-15-102, **amend**
14 (19.5) and (20.6) as follows:

15 **40-15-102. Definitions.** As used in this article 15, unless the
16 context otherwise requires:

17 (19.5) "Nonoptional operator services" means operator services
18 requiring an operator for individualized call processing or specialized or
19 alternative billing, including, without limitation, credit card calls, calls
20 billed to a third number, collect calls, and person-to-person calls, OR
21 OPERATOR SERVICES TO PROVIDE TELEPHONE SERVICES TO INMATES AT
22 PENAL INSTITUTIONS AND JAILS, AS DEFINED IN 17-42-103 (2)(c).

23 (20.6) "Optional operator services" means operator services not
24 defined in subsection (19.5) or (20.3) of this section, including, without
25 limitation, operator services provided in connection with conference
26 calling, foreign language translation, ~~operator services to provide~~
27 ~~telephone service to inmates at penal institutions,~~ and voice messaging.

1 **SECTION 4.** In Colorado Revised Statutes, 40-15-107, **repeal** (3)
2 as follows:

3 **40-15-107. Powers of commission - inspection of books and**
4 **documents - confidentiality of information obtained through audit.**

5 ~~(3) The commission shall have no authority to regulate telephone or~~
6 ~~telecommunications service from inmates at penal institutions.~~

7 **SECTION 5. Appropriation.** For the 2020-21 state fiscal year,
8 \$13,347 is appropriated to the department of regulatory agencies for use
9 by the public utilities commission. This appropriation is from the
10 telecommunications utility fund created in section 40-2-114 (1)(b)(I),
11 C.R.S., and is based on an assumption that the commission will require
12 an additional 0.2 FTE. To implement this act, the commission may use
13 this appropriation for personal services.

14 **SECTION 6. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety.