A BILL FOR AN ACT

Concerning transparency of penal telecommunications service providers in jails, and, in connection therewith, 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
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.

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

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

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

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

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

(b) "FEE" MEANS ANY AMOUNT OF MONEY CHARGED TO A PERSON FOR THE USE OF PENAL TELECOMMUNICATIONS SERVICES IN ADDITION TO
RATES. A FEE INCLUDES EXTRA CHARGES FOR INITIATING A CALL, OPENING AN ACCOUNT, HAVING AN ACCOUNT, FUNDING AN ACCOUNT, INACTIVITY, CLOSING AN ACCOUNT, GETTING A REFUND, OR RECEIVING A PAPER BILL.

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

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

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

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

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

(h) "UNDERLYING CARRIER" MEANS A TELECOMMUNICATIONS SERVICE PROVIDER THAT CONTRACTS WITH A PENAL TELECOMMUNICATIONS SERVICE PROVIDER THAT HAS A ENTERED INTO A CONTRACT TO PROVIDE TELECOMMUNICATIONS SERVICES TO A JAIL.
(3) (a) Each penal telecommunications service provider shall maintain the records and data specified in this subsection (3)(a) for each jail to which it provides penal telecommunications services. A telecommunications service provider that serves as an underlying carrier is not required to maintain or produce the records and data specified in this subsection (3)(a). On or before January 1, 2021, each penal telecommunications service provider shall submit such records and data in a report to the public utilities commission within fourteen days after the end of each quarter. Except as provided in subsection (3)(b) of this section, the quarterly reports submitted pursuant to this subsection (3)(a) must include:

(I) A copy of the existing contract between the penal telecommunications service provider and the government entity to provide penal telecommunications services to persons in custody in a jail;

(II) The total number of calls made from the jail using the service;

(III) The total minutes for calls made from the jail using the service;

(IV) The revenue collected by the penal telecommunications service provider for the provision of the services;

(V) A summary of all commissions paid to the jail or any other government entity by the penal telecommunications service provider;

(VI) A copy of the penal telecommunications service
PROVIDER'S UNCLAIMED FUNDS POLICY;

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

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

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

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

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

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

(A) INITIATE A CALL;

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

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

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

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

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

(b) A PENAL TELECOMMUNICATIONS SERVICE PROVIDER IS NOT
OBLIGATED TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH THE
RECORDS AND DATA REQUIRED BY SUBSECTION (3)(a) OF THIS SECTION IF
SUCH RECORDS AND DATA HAVE NOT CHANGED SINCE THE REPORT
SUBMITTED IN THE PREVIOUS QUARTER.

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

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

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

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

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

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

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

(20.6) "Optional operator services" means operator services not
defined in subsection (19.5) or (20.3) of this section, including, without
limitation, operator services provided in connection with conference
calling, foreign language translation, operator services to provide
telephone service to inmates at penal institutions, and voice messaging.
SECTION 4. In Colorado Revised Statutes, 40-15-107, repeal (3) as follows:


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

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

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