

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0468.01 Jane Ritter x4342

HOUSE BILL 21-1201

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A BILL FOR AN ACT

101 **CONCERNING TRANSPARENCY OF PENAL COMMUNICATIONS SERVICE**
102 **PROVIDERS IN CORRECTIONAL FACILITIES, AND, IN CONNECTION**
103 **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 penal telecommunications service providers (providers) who provide penal telecommunications services (services) to correctional facilities (facilities) to maintain data and records (data) related to the services provided to those facilities. The bill requires providers to submit the data and a report on the services provided to the

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.

SENATE
3rd Reading Unamended
May 24, 2021

SENATE
2nd Reading Unamended
May 21, 2021

HOUSE
3rd Reading Unamended
April 29, 2021

HOUSE
Amended 2nd Reading
April 28, 2021

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.

The commission shall establish a maximum per-minute rate for in-state debit, prepaid, and collect calls to or from facilities, and shall conduct trial tests to ensure accountability and transparency.

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 communications services**
6 **in correctional facilities - report - 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~~ PENAL
9 ~~COMMUNICATIONS SERVICE~~ provider except as much as is necessary to
10 pay for calling costs and the direct and indirect costs incurred by the
11 department in managing the calling system. For the purposes of this
12 ~~provision~~ SUBSECTION (1), "direct and indirect costs incurred by the
13 department in managing the calling system" includes costs related to the
14 provision of security and monitoring systems by either the department or
15 the ~~phone~~ PENAL ~~COMMUNICATIONS SERVICE~~ provider.

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

18 (a) "COMMISSION" MEANS ANY FORM OF MONETARY PAYMENT,
19 ~~THING OF VALUE~~, IN-KIND PAYMENT, GIFT, EXCHANGE OF SERVICES OR
20 GOODS, ~~FEE OTHER THAN FOR DIRECT COST RECOVERY~~, OR TECHNOLOGY

1 ALLOWANCE PAID TO A CORRECTIONAL FACILITY OR OTHER GOVERNMENT
2 ENTITY BY A PENAL COMMUNICATIONS SERVICE PROVIDER.

3 (b) "CORRECTIONAL FACILITY" MEANS ANY BUILDING, STRUCTURE,
4 ENCLOSURE, INSTITUTION, OR PLACE, WHETHER PERMANENT OR
5 TEMPORARY, FIXED OR MOBILE, WHERE PERSONS ARE OR MAY BE
6 LAWFULLY HELD IN CUSTODY OR CONFINED AND THAT IS OPERATED BY A
7 CITY, COUNTY, CITY AND COUNTY, STATE GOVERNMENT, OR PRIVATE
8 ENTITY, INCLUDING BUT NOT LIMITED TO A JAIL OR PRISON.

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

14 (d) "PENAL COMMUNICATIONS SERVICE PROVIDER" MEANS A
15 PERSON OR COMPANY THAT PROVIDES PENAL COMMUNICATIONS SERVICES.

16 (e) "PENAL COMMUNICATIONS SERVICES" MEANS
17 COMMUNICATIONS SERVICES, INCLUDING TELEPHONE SERVICES PROVIDED
18 TO A CORRECTIONAL FACILITY FOR USE BY END USERS.

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

22 (g) "RATE" MEANS ANY PREDETERMINED PER-MINUTE COST SET BY
23 THE PENAL COMMUNICATIONS SERVICE PROVIDER FOR THE USE OF PENAL
24 COMMUNICATIONS SERVICES.

25 (h) "REVENUE" MEANS THE MONEY COLLECTED FROM USERS OF
26 COMMUNICATIONS SERVICES.

27 (i) "UNDERLYING CARRIER" MEANS A COMMUNICATIONS SERVICE

1 PROVIDER THAT CONTRACTS WITH A PENAL COMMUNICATIONS SERVICE
2 PROVIDER THAT HAS ENTERED INTO A CONTRACT TO PROVIDE
3 COMMUNICATIONS SERVICES TO A CORRECTIONAL FACILITY.

4 (3) (a) EACH PENAL TELECOMMUNICATIONS SERVICE PROVIDER
5 SHALL MAINTAIN THE RECORDS AND DATA SPECIFIED IN THIS SUBSECTION
6 (3)(a) FOR EACH CORRECTIONAL FACILITY TO WHICH IT PROVIDES PENAL
7 COMMUNICATIONS SERVICES. A COMMUNICATIONS SERVICE PROVIDER
8 THAT SERVES AS AN UNDERLYING CARRIER IS NOT REQUIRED TO MAINTAIN
9 OR PRODUCE THE RECORDS AND DATA SPECIFIED IN THIS SUBSECTION
10 (3)(a). ON OR BEFORE JANUARY 1, 2022, EACH PENAL COMMUNICATIONS
11 SERVICE PROVIDER SHALL SUBMIT SUCH RECORDS AND DATA IN A REPORT
12 TO THE PUBLIC UTILITIES COMMISSION WITHIN FOURTEEN DAYS AFTER THE
13 END OF EACH QUARTER. EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF
14 THIS SECTION, THE QUARTERLY REPORTS SUBMITTED PURSUANT TO THIS
15 SUBSECTION (3)(a) MUST INCLUDE:

16 (I) A COPY OF THE EXISTING CONTRACT BETWEEN THE PENAL
17 COMMUNICATIONS SERVICE PROVIDER AND THE GOVERNMENT ENTITY TO
18 PROVIDE PENAL COMMUNICATIONS SERVICES TO PERSONS IN CUSTODY IN
19 A CORRECTIONAL FACILITY;

20 (II) THE TOTAL NUMBER OF CALLS MADE FROM THE CORRECTIONAL
21 FACILITY USING THE SERVICE;

22 (III) THE TOTAL MINUTES FOR CALLS MADE FROM THE
23 CORRECTIONAL FACILITY USING THE SERVICE;

24 (IV) THE REVENUE COLLECTED BY THE PENAL COMMUNICATIONS
25 SERVICE PROVIDER FOR PROVIDING THE SERVICES;

26 (V) A SUMMARY OF ALL COMMISSIONS PAID TO THE
27 CORRECTIONAL FACILITY OR ANY OTHER GOVERNMENT ENTITY BY THE

1 PENAL COMMUNICATIONS SERVICE PROVIDER;

2 (VI) A COPY OF THE PENAL COMMUNICATIONS SERVICE PROVIDER'S

3 UNCLAIMED FUNDS POLICY;

4 (VII) THE RATES CHARGED BY THE PENAL COMMUNICATIONS

5 SERVICE PROVIDER TO PERSONS IN CUSTODY MAKING TELEPHONE CALLS

6 TO PERSONS NOT IN CUSTODY, INCLUDING ANY RATES CHARGED FOR:

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

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

9 CALL;

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

11 (D) MINUTES SUBSEQUENT TO THE FIRST MINUTE OF AN

12 OUT-OF-STATE CALL; ■

13 (VIII) ALL FEES CHARGED TO PERSONS IN CUSTODY MAKING

14 TELEPHONE CALLS TO PERSONS NOT IN CUSTODY, INCLUDING FEES

15 CHARGED TO:

16 (A) INITIATE A CALL;

17 (B) DEPOSIT MONEY INTO THE INCARCERATED PERSON'S ACCOUNT

18 FOR COMMUNICATIONS SERVICES;

19 (C) OPEN, MAINTAIN, FUND, OR CLOSE AN ACCOUNT WITH A PENAL

20 COMMUNICATIONS SERVICE PROVIDER;

21 (D) RECEIVE A REFUND FROM A PENAL COMMUNICATIONS SERVICE

22 PROVIDER;

23 (E) RECEIVE A PAPER BILL FROM A PENAL COMMUNICATIONS

24 SERVICE PROVIDER; AND

25 (F) MAKE PAYMENTS TO THE PENAL COMMUNICATIONS SERVICE

26 PROVIDER THROUGH A THIRD-PARTY COMPANY; AND

27 (IX) THE TOTAL NUMBER OF CONSUMER COMPLAINTS RELATED TO

1 VIDEO QUALITY.

2 (b) A PENAL COMMUNICATIONS SERVICE PROVIDER IS NOT
3 OBLIGATED TO PROVIDE THE PUBLIC UTILITIES COMMISSION WITH EACH
4 SPECIFIC RECORD OR DATA REQUIRED BY SUBSECTION (3)(a) OF THIS
5 SECTION IF THE SPECIFIC RECORD OR DATA HAS NOT CHANGED SINCE THE
6 REPORT WAS SUBMITTED IN THE PREVIOUS QUARTER.

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

11 (5) (a) STARTING ON JANUARY 1, 2022, RATE CAPS ESTABLISHED
12 BY THE FEDERAL COMMUNICATIONS COMMISSION APPLY TO ALL IN-STATE
13 DEBIT, PREPAID, AND COLLECT CALLS TO OR FROM A CORRECTIONAL
14 FACILITY.

15 (b) TO ENSURE ACCOUNTABILITY FOR POTENTIAL PREDATORY
16 PRACTICES BY PENAL COMMUNICATIONS SERVICE PROVIDERS AND TO
17 DETERMINE THE QUALITY OF CALLS TO AND FROM CORRECTIONAL
18 FACILITIES, THE PUBLIC UTILITIES COMMISSION SHALL CONDUCT TRIAL
19 TESTS ON A STATISTICALLY VALID SAMPLE OF PENAL COMMUNICATIONS
20 SERVICES, DOCUMENT THE TEST RESULTS AND ANY SUBSEQUENT
21 REMEDIAL ACTIONS TAKEN BY THE PUBLIC UTILITIES COMMISSION OR THE
22 PENAL COMMUNICATIONS SERVICE PROVIDERS, AND CONSOLIDATE THE
23 INFORMATION INTO AN ANNUAL WRITTEN REPORT PUBLISHED ON ITS
24 WEBSITE IN A FORMAT THAT IS ACCESSIBLE BY THE PUBLIC.

25 (c) THE PUBLIC UTILITIES COMMISSION SHALL COMPLY WITH THE
26 FOLLOWING STEPS WHEN CONDUCTING TRIAL TESTS OF PENAL
27 COMMUNICATIONS SERVICES:

1 (I) TESTS MUST INCLUDE TRIAL TELEPHONE CALLS TO STAFF PHONE
2 NUMBERS NOT ALREADY IN THE PROVIDER'S SYSTEM; ■

3 (II) TESTS MUST BE CONDUCTED BIANNUALLY TO MONITOR THE
4 COST AND QUALITY OF CALLS, INCLUDING HOW THE PENAL
5 COMMUNICATIONS SERVICE PROVIDER IS CHARGING AND ADDRESSING
6 CONSUMER COMPLAINTS REGARDING POOR QUALITY CALLS, INCLUDING
7 DROPPED CALLS; AND

8 (III) TESTS MAY BE CONDUCTED REMOTELY. ALL CORRECTIONAL
9 FACILITIES SHALL COOPERATE WITH THE PUBLIC UTILITIES COMMISSION IN
10 CONDUCTING TESTS OF PENAL COMMUNICATIONS SERVICES.

11 (d) PENAL COMMUNICATIONS SERVICE PROVIDERS SHALL INCLUDE
12 THE FOLLOWING LANGUAGE PROMINENTLY ON THEIR WEBSITE: "THE
13 PUBLIC UTILITIES COMMISSION (PUC) GIVES CONSUMERS THE
14 OPPORTUNITY TO FILE INFORMAL COMPLAINTS ABOUT PROBLEMS WITH THE
15 COMMUNICATIONS SERVICES THAT THE PUC REGULATES. COMPLAINTS
16 CAN BE FILED THROUGH WWW.PUC.COLORADO.GOV".

17 (e) NOTHING IN THIS SUBSECTION (5) LIMITS OR RESTRICTS THE
18 PUBLIC UTILITIES COMMISSION'S AUTHORITY TO REGULATE RATES AND
19 CHARGES, CORRECT ABUSES, OR PREVENT UNJUST DISCRIMINATION.

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

22 **40-1-103. Public utility defined.** (1) (b) Nothing in articles 1 to
23 7 of this ~~title shall be construed to~~ TITLE 40 apply to:

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

26 **SECTION 3.** In Colorado Revised Statutes, **amend** 40-2-113 as
27 follows:

1 **40-2-113. Collection of fees - limitation.** On or before June 15
2 of each year, the department of revenue shall notify each public utility
3 subject to this ~~article~~ ARTICLE 2 of the amount of its fee for the ensuing
4 fiscal year beginning July 1, computed by multiplying its gross intrastate
5 utility operating revenues for the preceding calendar year, as set forth in
6 its return filed for that purpose, by the percentage determined in
7 accordance with section 40-2-112; but the department of revenue shall not
8 require a public utility that is a telephone corporation to pay a fee in
9 excess of one-fifth of one percent of its gross intrastate utility operating
10 revenues for the preceding calendar year and shall not require any other
11 public utility to pay a fee in excess of one-quarter of one percent of its
12 gross intrastate utility operating revenues for the preceding calendar year.
13 Each public utility, INCLUDING PENAL COMMUNICATIONS SERVICE
14 PROVIDERS, AS DEFINED IN SECTION 17-42-103 (2), shall pay the fee
15 assessed against it to the department of revenue in equal quarterly
16 installments on or before July 15, October 15, January 15, and April 15
17 in each fiscal year. If a public utility does not make a payment by one of
18 the quarterly deadlines, the department of revenue shall charge the public
19 utility a penalty of ten percent of the installment due, together with
20 interest at the rate of one percent per month on the amount of the unpaid
21 installment until the full amount of the installment, penalty, and interest
22 has been paid. Upon failure, refusal, or neglect of any public utility to pay
23 the fee, or any penalty or interest, the attorney general shall bring suit in
24 the name of the state to collect the amount due.

25 **SECTION 4.** In Colorado Revised Statutes, 40-15-102, **amend**
26 (19.5) and (20.6) as follows:

27 **40-15-102. Definitions.** As used in this article 15, unless the

1 context otherwise requires:

2 (19.5) "Nonoptional operator services" means operator services
3 requiring an operator for individualized call processing or specialized or
4 alternative billing, including, without limitation, credit card calls, calls
5 billed to a third number, collect calls, and person-to-person calls, OR
6 OPERATOR SERVICES TO PROVIDE TELEPHONE SERVICES TO INMATES AT
7 CORRECTIONAL FACILITIES, AS DEFINED IN SECTION 17-42-103 (2).

8 (20.6) "Optional operator services" means operator services not
9 defined in subsection (19.5) or (20.3) of this section, including, without
10 limitation, operator services provided in connection with conference
11 calling, foreign language translation, ~~operator services to provide~~
12 ~~telephone service to inmates at penal institutions~~, and voice messaging.

13 **SECTION 5.** In Colorado Revised Statutes, 40-15-107, **repeal** (3)
14 as follows:

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

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

19 **SECTION 6. Appropriation.** (1) For the 2021-22 state fiscal
20 year, \$259,251 is appropriated to the department of regulatory agencies
21 for use by the public utilities commission. This appropriation is from the
22 telecommunications utility fund created in section 40-2-114 (b)(I), C.R.S.
23 To implement this act, the division may use this appropriation as follows:

24 (a) \$232,101 for personal services, which amount is based on an
25 assumption that the division will require an additional 3.0 FTE; and

26 (b) \$27,150 for operating expenses.

27 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.