A BILL FOR AN ACT

101 CONCERNING TRANSPARENCY OF PENAL TELECOMMUNICATIONS SERVICE PROVIDERS IN CORRECTIONAL FACILITIES.

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 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.

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 - report - 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 PENAL TELECOMMUNICATIONS SERVICE 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 PENAL TELECOMMUNICATIONS SERVICE provider.

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

(a) "COMMISSION" MEANS ANY FORM OF MONETARY PAYMENT, THING OF VALUE, IN-KIND PAYMENT, GIFT, EXCHANGE OF SERVICES OR GOODS, FEE OTHER THAN FOR DIRECT COST RECOVERY, OR TECHNOLOGY ALLOWANCE PAID TO A CORRECTIONAL FACILITY OR OTHER GOVERNMENT
ENTITY BY A PENAL TELECOMMUNICATIONS SERVICE PROVIDER.

(b) "CORRECTIONAL FACILITY" 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, CITY AND COUNTY, STATE GOVERNMENT, OR PRIVATE ENTITY, INCLUDING BUT NOT LIMITED TO A JAIL OR PRISON.

(c) "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.

(d) "PENAL TELECOMMUNICATIONS SERVICE PROVIDER" MEANS A TELECOMMUNICATIONS SERVICE PROVIDER THAT CONTRACTS WITH A GOVERNMENT ENTITY TO PROVIDE TELECOMMUNICATIONS SERVICES TO A CORRECTIONAL FACILITY, 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 ENTERED INTO A CONTRACT TO PROVIDE TELECOMMUNICATIONS SERVICES TO A CORRECTIONAL FACILITY.

(3) (a) EACH PENAL TELECOMMUNICATIONS SERVICE PROVIDER SHALL MAINTAIN THE RECORDS AND DATA SPECIFIED IN THIS SUBSECTION (3)(a) FOR EACH CORRECTIONAL FACILITY 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, 2022, 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 CORRECTIONAL FACILITY;

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

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

(IV) THE REVENUE COLLECTED BY THE PENAL
TELECOMMUNICATIONS SERVICE PROVIDER FOR PROVIDING THE SERVICES;

(V) A SUMMARY OF ALL COMMISSIONS PAID TO THE CORRECTIONAL FACILITY 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 NOT IN 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 NOT IN CUSTODY, INCLUDING FEES CHARGED TO:

(A) INITIATE A CALL;

(B) DEPOSIT MONEY INTO THE INCARCERATED PERSON'S ACCOUNT FOR TELECOMMUNICATIONS 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 each specific record or data required by subsection (3)(a) of this section if the specific record or data has not changed since the report was 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.

(5) (a) Starting on January 1, 2022, rate caps established by the federal communications commission apply to all in-state debit, prepaid, and collect calls to or from a correctional facility.

(b) To ensure accountability for potential predatory practices by penal telecommunications service providers and to determine the quality of calls to and from correctional facilities, the public utilities commission shall conduct trial tests of penal telecommunications services, document the test results and any subsequent remedial actions taken by the public utilities commission or the penal telecommunications service providers, and consolidate the information into an annual written report published on its website in a format that is accessible by the public.

(c) The public utilities commission shall comply with the following steps when conducting trial tests of penal
TELECOMMUNICATIONS SERVICES:

(I) Tests must include trial telephone calls to staff phone numbers not already in the provider's system;

(II) Tests must be conducted biannually to monitor the cost and quality of calls, including how the penal telecommunications service provider is charging and addressing consumer complaints regarding poor quality calls, including dropped calls; and

(III) Tests may be conducted remotely. All correctional facilities shall cooperate with the public utilities commission in conducting tests of penal telecommunications services.

(d) Nothing in this subsection (5) limits or restricts the public utilities commission's authority to regulate rates and charges, correct abuses, or prevent unjust discrimination.

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
CORRECTIONAL FACILITIES, AS DEFINED IN SECTION 17-42-103 (2).

(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:

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

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

SECTION 5. **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.