

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.**

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

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.

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
23 RATES. A FEE INCLUDES EXTRA CHARGES FOR INITIATING A CALL, OPENING

1 AN ACCOUNT, HAVING AN ACCOUNT, FUNDING AN ACCOUNT, INACTIVITY,
2 CLOSING AN ACCOUNT, GETTING A REFUND, OR RECEIVING A PAPER BILL.

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

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

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

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

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

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

27 (3) (a) EACH PENAL TELECOMMUNICATIONS SERVICE PROVIDER

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

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

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

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

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

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

26 (VI) A COPY OF THE PENAL TELECOMMUNICATIONS SERVICE
27 PROVIDER'S UNCLAIMED FUNDS POLICY;

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

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

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

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

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

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

13 (A) INITIATE A CALL;

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

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

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

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

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

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

1 SUBMITTED IN THE PREVIOUS QUARTER.

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

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

8 **40-1-103. Public utility defined.** (1) (b) Nothing in articles 1 to
9 7 of this ~~title shall be construed to~~ TITLE 40 apply to:

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

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

14 **40-15-102. Definitions.** As used in this article 15, unless the
15 context otherwise requires:

16 (19.5) "Nonoptional operator services" means operator services
17 requiring an operator for individualized call processing or specialized or
18 alternative billing, including, without limitation, credit card calls, calls
19 billed to a third number, collect calls, and person-to-person calls, OR
20 OPERATOR SERVICES TO PROVIDE TELEPHONE SERVICES TO INMATES AT
21 PENAL INSTITUTIONS AND JAILS, AS DEFINED IN 17-42-103 (2)(c).

22 (20.6) "Optional operator services" means operator services not
23 defined in subsection (19.5) or (20.3) of this section, including, without
24 limitation, operator services provided in connection with conference
25 calling, foreign language translation, ~~operator services to provide~~
26 ~~telephone service to inmates at penal institutions,~~ and voice messaging.

27 **SECTION 4.** In Colorado Revised Statutes, 40-15-107, **repeal** (3)

1 as follows:

2 **40-15-107. Powers of commission - inspection of books and**
3 **documents - confidentiality of information obtained through audit.**

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

6 **SECTION 5. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.