

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

PREAMENDED

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

LLS NO. 21-0468.01 Jane Ritter x4342

HOUSE BILL 21-1201

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Tipper,

SENATE SPONSORSHIP

Gonzales,

House Committees

Judiciary
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TRANSPARENCY OF PENAL TELECOMMUNICATIONS**
102 **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

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.*

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 telecommunications**
6 **services in correctional facilities - report - definitions.** (1) In
7 administering the use of telephones by inmates in any state or private
8 prison facility, the department shall not receive any commission from the
9 ~~phone~~ PENAL TELECOMMUNICATIONS SERVICE provider except as much as
10 is necessary to pay for calling costs and the direct and indirect costs
11 incurred by the department in managing the calling system. For the
12 purposes of this ~~provision~~ SUBSECTION (1), "direct and indirect costs
13 incurred by the department in managing the calling system" includes costs
14 related to the provision of security and monitoring systems by either the
15 department or the ~~phone~~ PENAL TELECOMMUNICATIONS 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
21 ALLOWANCE PAID TO A CORRECTIONAL FACILITY OR OTHER GOVERNMENT

1 ENTITY BY A PENAL TELECOMMUNICATIONS SERVICE PROVIDER.

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

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

13 (d) "PENAL TELECOMMUNICATIONS SERVICE PROVIDER" MEANS A
14 TELECOMMUNICATIONS SERVICE PROVIDER THAT CONTRACTS WITH A
15 GOVERNMENT ENTITY TO PROVIDE TELECOMMUNICATIONS SERVICES TO A
16 CORRECTIONAL FACILITY, INCLUDING TELEPHONE SERVICES, ELECTRONIC
17 MAILING AND MESSAGING SERVICES, VIDEO VISITATION SERVICES, AND
18 ANY OTHER TECHNOLOGY THAT IS MADE AVAILABLE TO PERSONS IN
19 CUSTODY TO FACILITATE COMMUNICATION WITH PERSONS OUTSIDE OF
20 CUSTODY.

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

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

27 (g) "REVENUE" MEANS THE MONEY COLLECTED FROM USERS OF

1 TELECOMMUNICATIONS SERVICES.

2 (h) "UNDERLYING CARRIER" MEANS A TELECOMMUNICATIONS
3 SERVICE PROVIDER THAT CONTRACTS WITH A PENAL
4 TELECOMMUNICATIONS SERVICE PROVIDER THAT HAS ENTERED INTO A
5 CONTRACT TO PROVIDE TELECOMMUNICATIONS SERVICES TO A
6 CORRECTIONAL FACILITY.

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

19 (I) A COPY OF THE EXISTING CONTRACT BETWEEN THE PENAL
20 TELECOMMUNICATIONS SERVICE PROVIDER AND THE GOVERNMENT ENTITY
21 TO PROVIDE PENAL TELECOMMUNICATIONS SERVICES TO PERSONS IN
22 CUSTODY IN A CORRECTIONAL FACILITY;

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

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

27 (IV) THE REVENUE COLLECTED BY THE PENAL

1 TELECOMMUNICATIONS SERVICE PROVIDER FOR PROVIDING THE SERVICES;

2 (V) A SUMMARY OF ALL COMMISSIONS PAID TO THE
3 CORRECTIONAL FACILITY OR ANY OTHER GOVERNMENT ENTITY BY THE
4 PENAL TELECOMMUNICATIONS SERVICE PROVIDER;

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

7 (VII) THE RATES CHARGED BY THE PENAL TELECOMMUNICATIONS
8 SERVICE PROVIDER TO PERSONS IN CUSTODY MAKING TELEPHONE CALLS
9 TO PERSONS NOT IN CUSTODY, INCLUDING ANY RATES CHARGED FOR:

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

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

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

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

16 (VIII) ALL FEES CHARGED TO PERSONS IN CUSTODY MAKING
17 TELEPHONE CALLS TO PERSONS NOT IN CUSTODY, INCLUDING FEES
18 CHARGED TO:

19 (A) INITIATE A CALL;

20 (B) DEPOSIT MONEY INTO THE INCARCERATED PERSON'S ACCOUNT
21 FOR TELECOMMUNICATIONS SERVICES;

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

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

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

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

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

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

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

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

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

1 TELECOMMUNICATIONS SERVICES:

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

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

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

12 (d) NOTHING IN THIS SUBSECTION (5) LIMITS OR RESTRICTS THE
13 PUBLIC UTILITIES COMMISSION'S AUTHORITY TO REGULATE RATES AND
14 CHARGES, CORRECT ABUSES, OR PREVENT UNJUST DISCRIMINATION.

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

17 **40-1-103. Public utility defined.** (1) (b) Nothing in articles 1 to
18 7 of this title shall be construed to TITLE 40 apply to:

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

21 **SECTION 3.** In Colorado Revised Statutes, 40-15-102, **amend**
22 (19.5) and (20.6) as follows:

23 **40-15-102. Definitions.** As used in this article 15, unless the
24 context otherwise requires:

25 (19.5) "Nonoptional operator services" means operator services
26 requiring an operator for individualized call processing or specialized or
27 alternative billing, including, without limitation, credit card calls, calls

1 billed to a third number, collect calls, and person-to-person calls, OR
2 OPERATOR SERVICES TO PROVIDE TELEPHONE SERVICES TO INMATES AT
3 CORRECTIONAL FACILITIES, AS DEFINED IN SECTION 17-42-103 (2).

4 (20.6) "Optional operator services" means operator services not
5 defined in subsection (19.5) or (20.3) of this section, including, without
6 limitation, operator services provided in connection with conference
7 calling, foreign language translation, ~~operator services to provide~~
8 ~~telephone service to inmates at penal institutions~~, and voice messaging.

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

11 **40-15-107. Powers of commission - inspection of books and**
12 **documents - confidentiality of information obtained through audit.**

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

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