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DEPARTMENT OF CORRECTIONS
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04333-0111

RANDALL A. LIBERTY
COMMISSIONER

TESTIMONY OF

SAM PRAWER, DIRECTOR OF GOVERNMENT AFFAIRS MAINE DEPARTMENT OF CORRECTIONS

March 24, 2025

Opposed:

LD 647, An Act Regarding Telephone and Video Call Access in Detention and Correctional Facilities and Jails

Senator Beebe-Center, Representative Hasenfus and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, I am Sam Prawer, Director of Government Affairs at the Maine Department of Corrections (DOC) providing testimony today in opposition to LD 647, An Act Regarding Telephone and Video Call Access in Detention and Correctional Facilities and Jails.

I want to begin by recognizing the good intentions behind this proposal, which is an effort to reduce the financial obligations imposed on residents of the correctional system and ensure that they have the means necessary to contact family and legal counsel. While the department respects where the sponsor is coming from with that goal, we cannot support the proposal before you today. Additionally, it is the department's understanding that the bill sponsor may be considering an alternative pathway that focuses on the statutorily designated account balance at which a resident would be allowed a certain number of free phone call minutes weekly. Both the bill as printed and that alternative proposal are addressed below.

The Bill As Printed:

As printed, LD 647 would provide residents with a weekly 90 minute allowance of free telephone and video calls, as well as unlimited free telephone and video calls for the purpose of contacting an attorney. This framework poses both financial and practical problems for the Department of Corrections.

From a financial perspective, the bill as printed would result in a substantial fiscal impact to our department. Currently, DOC provides phone calls to residents under the statutory framework in 34-A MRS §3015, which provides that a resident who has less than \$10 in their facility account is eligible for a free telephone call allowance of 30 minutes per week, and that a resident who has less than \$10 in their facility account is eligible for an additional free telephone call allowance of 30 minutes per week for attorney-client calls. There are no free video calls under the current statute. This process is also outlined in DOC Policy 21.3 Adult Resident Telephone Access. Looking back at 2024, there were 366 free calls completed in our adult system (for juveniles, every call is free). Within the 6 month period between July 1, 2024 and December 31, 2024 only 40 residents qualified for free calls.

As printed, LD 647 would dramatically expand the scope of free calls by making all residents in our system eligible (1908 people as of 3/20/25), by including video calls, and by expanding the current free telephone call allowance to 90 minutes per week for general calls and unlimited minutes for attorney-client calls. Following the recent FCC ruling in July 2024 that reduced the amounts which residents of correctional facilities could be charged for calls, DOC no longer collects any commissions for resident calls. Instead our facility telecommunications system provider Viapath charges a rate of 6 cents per minute for all telephone calls that aren't exempted pursuant to §3015 and 16 cents per minute for all video calls (available through the tablets). Currently, Viapath picks up the cost for the free phone calls made under the statute. The



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department's contract with Viapath is established based on the income the provider reasonably expects to make from these fees and was recently renegotiated due to the July 2024 FCC ruling. As we discussed during the recent budget hearing, the renegotiation resulted in Viapath providing DOC with tablets for the youth at Long Creek for no additional cost.

If a 90 minute per week allowance of free calls were to be made available to adults across our system, it would greatly impact the current contract we have with our provider. Assuming that all residents took advantage of the free telephone calls the cost would be approximately \$280 per resident per year¹ and approximately \$535,766 in free calls across the system.² If that same calculation is made using video calls, the costs rise to \$748 per resident per year³ and \$1,428,710 in free video calls across the system.⁴ While it's important to acknowledge that these numbers are approximations that assume each resident utilizes the full 90 minutes available under this bill, it's also important to recognize that our provider will have to consider the upper and lower limits of potential income impact when considering whether and how to maintain services for DOC. It's also important to recognize that these calculations do not include costs associated with the unlimited free attorney-client calls. Ultimately, it will be the department that is responsible for making up these costs to the provider so that they maintain an incentive to continue providing us with their services. This is cost that our current budget simply cannot absorb.

In addition to the financial impact, the department would also face some significant practical complications resulting from this proposal. First, due to the fact that the phone calls and video calls are provided through separate systems, there is no way to easily keep track of how much time a person has used on one versus the other. It would be infeasible for our team to track and compare the individual phone and video call minutes of each resident in our system on a weekly basis. Second, this bill requires that we provide privileged attorney-client video calls in addition to telephone calls. For security reasons, our tablet system simply is not designed to provide privileged attorney-client calls. For that, we'd have to find a new provider and our team is not aware of anyone that provides that particular service.

Raising the account balance minimum to exempt applicable fees:

Having engaged in discussions about this proposal with the bill sponsor prior to the public hearing, we are aware that the sponsor is considering alternative ways in which the cost obligations could be reduced for residents without having such a high financial impact on the department. We appreciate these efforts and thank the bill sponsor for hearing us out with those concerns. One alternative course that we're aware is currently under consideration is to, instead of providing the free phone calls outlined in the bill as printed, simply raise the statutory minimum account balance at which a resident may not be charged for phone calls or other fees. Currently, there are only two applicable provisions in Title 34-A where an indigent account balance level is set. One is for the telephone fees, as outlined in 34-A MRS §3015 (currently set at \$10), the other is for healthcare fees, as outlined in 34-A §3031 (currently set at \$15).

The chart below represents the number of resident accounts that didn't rise above a specified dollar amount in the 6 month period between July 1, 2024 and December 31, 2024. The increments provided were \$0, \$10, \$15, \$30, \$50, and \$100. Each subsequent line does not count the lines that preceded it. Also, it's important to note that the total number of accounts polled for this data exceeds the current population number for our adult facilities. This is due to the fact that the population changes over a 6 month period, as people are admitted and released from our custody.

¹ (.06c x 90m) x 52w = 280.8

² 280.8 x 1908r = 535,766.4

³ (.16c x 90) x 52w = 748.8

⁴ 748.8 x 1908r = 1,428,710.4



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GROUPING CODE DEFINITIONS	RESULTS:	
	GROUPING CODE	TOTAL BALANCE DUE
GROUP--: < 0.00 -- negative shouldn't occur...	GROUP--:	0
GROUP-0: = 0.00 -- not including "Group --".	GROUP-0:	3
GROUP-A: <= 10.00 --not including Group 0.	GROUP-A:	37
GROUP-B: <= 15.00 -- not including Group A.	GROUP-B:	5
GROUP-C: <= 30.00 --not including Group B.	GROUP-C:	40
GROUP-D: <= 50.00 --not including Group C.	GROUP-D:	51
GROUP-E: <= 100.00 --not including Group D.	GROUP-E:	157
GROUP-F: > 100.00 --failed the criteria...	GROUP-F:	1992
RESIDED IN ADULT FACILITIES ONLY DURING TIME PERIOD -->	RESIDENTS:	2285

This chart can be used to estimate the approximate number of people that would be included if the statutory minimum account balances were to be raised to different increments. While this approach is likely to have a much smaller financial impact on the department than the one outlined in the bill as printed, it still has the potential to substantially impact our current contract with our facility telecommunications provider by expanding the number of residents that would be eligible for free phone calls. The department is still working to evaluate what that impact would ultimately be, but we are seriously concerned that any change in the current eligibility criteria could result in a financial impact to our provider that would ultimately trigger a contract renegotiation, leave DOC responsible for filling the gap, and potentially threaten the sustainability of the services we were able to secure through the most recent rounds of negotiations. That reality poses a serious financial risk to the department in a time when funding is already extremely tight. While we would ultimately like to find some common ground with this proposal, any change to the current provisions would result in an added fiscal impact outside what was provided for in the 26-27 Biennial Budget.

For the reasons stated above, the department respectfully presents this testimony in opposition to this proposal.

This concludes my testimony.

I am happy to answer any questions.

Sam Prawer
Director of Government Affairs
Maine Department of Corrections