



295 Water St.
Augusta, Maine 04330

April 14th, 2021

Dear Senator Desambault, Representative Warren, and members of the Criminal Justice and Public Safety Committee,

My name is Courtney Allen. I am a resident of Augusta and the Policy Director of the Maine Recovery Advocacy Project, a grassroots network of people across Maine working to redefine and reimagine justice, access, connection, and recovery from substance use. One of our true north organizing principles at ME-RAP is that we listen to our community and then we act. Our community includes people in recovery, people who use drugs, family members, and all of our allies.

I am here today to testify in favor of LD 1175. I am not going to have enough time today to cover everything I would like to so I have attached a copy of a Powerpoint presentation further outlining the issue and copies of other relevant documents.

This session ME-RAP has a slate of priority bills that are direct asks from our community to the Maine State Legislature - which makes all the bills I work on personal but this bill, well this bill is really personal. This bill was an ask from my son, Wyatt. For you to understand why a 13-year-old boy is asking your committee to end the collection of kickbacks by state and local governments on phone calls in jails and prisons, cap the rates that can be charged per minute, and provide two free phone calls a week to people who are incarcerated - I will need to take you back in time.

It was about two or three years ago and I had just put dinner on the table. I believe it was lasagna that night. The night that I had to tell my son that we did not have the money that week for him to talk to his father. His father has been incarcerated off and on his entire life. Wyatt is a quiet, thoughtful child. He rarely speaks and when he does I listen. The words that came out of his mouth that night sent me on a journey that led us to this committee room today. His voice cracked as he said, "Mom, why do the phone calls cost so much? Where does that money go? Can you find someone to help us? I just want to talk to my dad."

I've been able to answer some of those questions for him. Put into simple terms, the costs of phone calls from Maine jails and prisons actually have little to do with the cost of the phone service provided. The cost is increased by the commissions that jails and prisons receive for those calls, hidden inside the contracts they negotiate with the phone service provider. Those kickbacks come directly from the pockets of Maine families trying to keep in touch with their loved ones.



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That money is then used to fund things like televisions and recreational equipment inside Maine jails and prisons. To be clear, ME-RAP is in 100% agreement that people who are incarcerated should have access to these things. We do not believe that they should be funded on the backs of family members - they should be paid for out of the budget that is already available to these institutions.

The Maine Department of Corrections and county jails should not be making money off Maine families. We already pay our taxes to fund the jails and prisons. Paying another fee for telephone services, commissary, and video services is the equivalent of double taxation. We are one of the primary sources of funds for people who are incarcerated and marking up the prices of these services for the profit of the facility is fundamentally unjust, is essentially price gouging, and takes unfair advantage of a situation out of our control.

Furthermore, it harms children. In particular, it harms my child and it is not okay.

I urge your committee to vote ought to pass.

I am happy to answer any questions.

Thank you,
Courtney Allen
courtney@recoveryvoices.com

*Attached to this testimony is a PowerPoint presentation and other relevant information



But wait...

How many children is parental incarceration effecting?

- A [recent report](#) at USM found that 3,400 Maine Children had a parent incarcerated in a state prison at some point in the last five years. Not including parents who are incarcerated in county jails.
- A [separate study](#) in 2016 found that roughly 20,000 Maine children (8%) had at least one parent imprisoned at some point in their childhood - the highest rate in New England and the 14th highest in the country.



But wait...

How much do they cost?

- **In Maine:**
 - **A 15 minute phone call in Maine County Jails range from \$3.50 to \$5.65, depending on which county jail you are calling from and at what time of the day.**
 - **Day time calls cost the most, nights and weekends the least.**
 - **Phone calls made to instate locations cost more than phone calls made to out of state locations. (We will get to why in a bit...)**
 - **A 15 minute phone call in Maine Prisons cost \$1.35.**



But wait...

Why do they cost that much?

- Each county jail negotiates a contract with an out of state phone providers (such as Securus Tech).
- Inside those contracts the jail receives a portion of the cost of a call back in the forms of kickbacks.
- Those kickbacks are put into a fund called the inmate betterment fund and used to purchase items for the jails.
- The cost is increased by the kickbacks that each county receives for those calls - ranging from \$100,000 in Kennebec County in 2019 to \$10,000 in Franklin County, based on documentation released by sheriffs to the Maine Drug Policy Lab at Colby College through a Freedom of Information Request.



But wait.....

What has been done about this?



- **Martha Wright, a blind, 82 year old, retired nurse and African American grandmother who was trying to stay in contact with her grandson was the first person to raise Wyatt's questions at the federal level.**
- **She had been paying nearly \$1,000 a month to talk with her grandson and just couldn't understand how the prisons were getting away with charging so much.**
- **In 2000, she filed a class action lawsuit against Corrections Corp of American, which operates 86 prisons and jails in 26 states (not Maine).**



But wait.....

What has been done about this?



- In this lawsuit, plaintiffs alleged that excessively high rates and surcharges on calling by prisoners violates their constitutional rights to: speech and association, the right to foster and maintain family relations under the First and Fourteenth Amendments, and the rights to due process and equal protection of law under the Fifth and Fourteenth Amendments.
- In short, the phone companies and local government profit from their unfair control over imprisoned people and force families to pay high rates because they have no other choice.
- On August 22, 2001, District Judge Gladys Kessler acknowledged the civil rights concerns but refers the case to the Federal Communications Commission, under the doctrine of primary jurisdiction for rulemaking.



But wait... What happened?

2002-2011

- For nearly 10 years, the FCC takes no visible action.

2012

- The FCC files a **Notice of Proposed Rulemaking (NPRM)** regarding the Wright Petition.

2013

- The FCC votes 2-1 to approve **new regulations** that set interstate rate caps of 21 cents a minute for debit and prepaid calls and 25 cents a minute for collect calls.
- The one **dissenting vote** is from FCC Commissioner Ajit Pai, who **previously represented** prison phone giant Securus in private practice.

2014

Despite legal challenges from prison phone companies, the FCC's **new rate caps** go into effect in February.



But wait... What happened?

2015

- The FCC issues **additional regulations**, lowering the cost for all calls from prisons (out-of-state and in-state) to 11 cents a minute, and lowering the cost of calls from jails at 14 to 22 cents a minute depending on the size of the institution.
- The FCC also approves **comprehensive reform** and caps on the cost of hidden fees that can double the cost of a call.
- Many of the phone companies, several state prison systems, county jail systems, and sheriff associations **file suit** challenging the FCC's order.

2016

- The federal court issues a partial stay of the FCC's October 2015 regulations, preventing the new rate caps from taking effect.
- The new **regulations on fees**, however, go into effect.

2017

- In February, Ajit Pai is appointed chair of the FCC, Pai, who had twice voted against regulating the industry, announces that the FCC **will stop defending** its in-state rate caps in court.
- The federal court **strikes down** the FCC's 2015 rate caps.
- The 2013 rate caps, and the 2015 fee caps, **remain in place**.

2020

- U.S. Representative Bobby L. Rush (D-Ill.) introduced **H.R. 6389**, the Martha Wright Prison Phone Justice Act, which bans commissions received by prisons and other confinement facilities from communications providers.



Summary of the Problem



- **Up to 83% of the cost of phone calls in Maine Jails and Prisons have nothing to do with the actual cost of providing those services.**
- **The rates are increased through connection fees, per minute rates, and commissions received by governmental agencies.**
- **The federal government has no authority to regulate those things for calls made in state.**
- **Absent the ability to regulate prison and jail phone services on a national level, grassroots efforts at the local and state levels will be necessary to implement reforms.**



What have other states done?



New York City and **San Francisco**: Made prison phone calls free for those held in city jails.

Texas: Reduced their rates from .36 per minute to .6.



California, **Michigan**, **New Mexico**, **New York**,
Rhode Island, **South Carolina**: **New Jersey**:

Ended the collection of commissions on all phone calls. Capped the rates per minute. Mandated Contracts must be negotiated at the lowest price to the family.



NEW JERSEY



Rep Kinney:

An Act To Protect Families from Excessive Telephone, Video or Commissary Charges in Maine Jails and Prisons

- Ends commissions and surcharges on telephone, video or commissary services provided to people who are incarcerated
- Directs The Maine Department of Corrections to negotiate its contract with telephone, video and commissary providers to give county jails the option to opt into the state contract and its terms.
- Caps the rate of phone calls per minute to 11 cents.
- Ends the ability to charge a connection fee on phone calls.
- Provides two free phone calls to people who are incarcerated to ensure that everyone has access to their children, family and recovery support services, regardless of their ability to pay.

Get

involved



WWW.RECOVERYVOICES.COM

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For Immediate Release**FCC SEEKS TO REDUCE RATES AND CHARGES
FOR INMATE CALLING SERVICES**

WASHINGTON, August 6, 2020—The Federal Communications Commission today took a major step toward comprehensively reforming rates and charges for the inmate calling services (ICS) within its jurisdiction. The U.S. Court of Appeals for the District of Columbia Circuit has twice rejected and remanded the FCC’s past efforts to address rates and charges for ICS. Recognizing the need of incarcerated individuals and their families to stay connected, the Commission today responded to the court’s remands and made several proposals to ensure just and reasonable rates and charges for these services, as required by the Communications Act.

First, the Commission responded to the D.C. Circuit’s remand on the issue of ancillary service charges. These are separate fees that are not included in the per-minute rates that ICS providers charge for individual calls. The court directed the Commission to consider whether these charges can be segregated into interstate and intrastate components for the purpose of excluding the intrastate components from the reach of the FCC’s rules. Today’s Order finds that, as a practical matter, these charges cannot be segregated between interstate and intrastate calls except in a limited number of cases. As a result, ICS providers are generally subject to the FCC’s rules when it comes to ancillary service charges. This means that ICS providers generally cannot charge incarcerated individuals and their families ancillary service charges other than the types allowed by the Commission’s rules and providers generally cannot charge ancillary service fees above the Commission’s applicable fee caps.

Second, in an accompanying Further Notice of Proposed Rulemaking, the FCC proposed new rate caps for interstate ICS calls based on extensive analysis of the most recent cost data submitted by ICS providers. Specifically, the Commission proposed to substantially reduce its interstate rate caps—currently \$0.21 per minute for debit and prepaid calls and \$0.25 per minute for collect calls—to \$0.14 per minute for debit, prepaid, and collect calls from prisons, and \$0.16 per minute for debit, prepaid, and collect calls from jails. The FCC’s proposed interstate rate caps use a methodology that addresses the flaws identified by the D.C. Circuit underlying the Commission’s 2015 and 2016 rate caps and that is consistent with the Communications Act. The Further Notice also proposes to adopt rate caps for international ICS calls for the first time.

Because the D.C. Circuit has ruled that the FCC lacks the authority to cap rates for intrastate ICS calls, the Commission urges its state partners to take action to address the egregiously high intrastate ICS rates across the country.

Action by the Commission August 6, 2020 by Report and Order on Remand and a Fourth Further Notice of Proposed Rulemaking (FCC 20-111). Chairman Pai, Commissioners O’Rielly, Carr, Rosenworcel, and Starks approving. Chairman Pai, Commissioners Carr, Rosenworcel, and Starks issuing separate statements.

WC Docket No. 12-375

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

Information retrieved from:

https://www.prisonpolicy.org/phones/appendix_table_2.html?fbclid=IwAR1ed4YO-6a0ZdOSU_rBBnvSBcmZeNNDNV-Ztj2n1y1CjuXT-dBhR13o4g8

2018 Phone Rates Survey

This data was manually collected between November 1st, 2018 and November 8th, 2018 from the phone providers' websites. In April 2019, we updated the report with the rates of 163 counties that contract with Reliance Telephone. Counties that had multiple facilities were aggregated together, state prisons were kept separate from our data on jails, and we removed police departments. Some facilities are included more than once because providers sometimes, when they lose a contract, do not remove the rates from their website.

State ^	Facility ⇅	Provider ⇅	First Minute (instate) ⇅	Additional Minutes (instate) ⇅	15 Minute Call (instate) ⇅
Maine	Androscoggin County Jail	Securus	\$1.70	\$0.27	\$5.48
Maine	Aroostook County Jail	Securus	\$0.29	\$0.29	\$4.35
Maine	Bolduc Correctional Facility	Legacy	\$0.09	\$0.09	\$1.35
Maine	Cumberland County Jail	Securus	\$1.48	\$0.14	\$3.44
Maine	Downeast Correctional Facility	Legacy	\$0.09	\$0.09	\$1.35
Maine	Franklin County Jail	Securus	\$1.75	\$0.32	\$6.23
Maine	Hancock County Jail	Securus	\$1.48	\$0.14	\$3.44
Maine	Kennebec County Jail	Securus	\$1.48	\$0.14	\$3.44
Maine	Knox County Jail	Securus	\$1.75	\$0.32	\$6.23
Maine	Long Creek Youth Center	Legacy	\$0.09	\$0.09	\$1.35
Maine	Mountain View - All Locations	Legacy	\$0.09	\$0.09	\$1.35
Maine	Oxford County Jail	Securus	\$1.75	\$0.32	\$6.23
Maine	Penobscot County Jail	Securus	\$1.75	\$0.32	\$6.23
Maine	Piscataquis County Jail	Securus	\$1.75	\$0.32	\$6.23
Maine	Somerset County Jail	GTL	na/	n/a	n/a
Maine	Two Bridges Regional ME-Jail	GTL	\$0.27	\$0.27	\$4.05
Maine	Waldo County Jail	Securus	\$1.75	\$0.32	\$6.23
Maine	Washington County Jail	Securus	\$1.48	\$0.14	\$3.44
Maine	York County Jail	Securus	\$1.75	\$0.32	\$6.23

§ 10-1-210. Pay telephone revenue.

Notwithstanding any other provision of law, all state agencies, institutions, colleges, and universities must remit to the general fund all revenues received and all monies retained above the cost of allowing the placement or location of pay telephones on public property. Each state agency, institution, college, and university must annually report to the Office of State Budget the revenue received for allowing the placement or location of pay telephones on public property, including any commission received for allowing the placement or location of pay telephones on public property. Public property means any and all property occupied or under the control of a state agency, institution, college, or university. The State shall forego any commissions or revenues for the provision of pay telephones in institutions of the Department of Corrections and the Department of Juvenile Justice for use by inmates. The State Budget and Control Board shall ensure that the telephone rates charged by vendors for the use of those telephones must be reduced to reflect this foregone state revenue.

CREDIT(S)

HISTORY: 2008 Act No. 353, § 2, Part 32A.

Code 1976 § 10-1-210, SC ST § 10-1-210

Current through End of 2010 Reg. Sess.

§ 42-56-38.1. Prisoner telephone use

(a) When an inmate requests and receives a list of parties approved to receive telephone calls, the inmate shall be provided the option of using either a debit or collect call system to place such calls. Under the debit system, either the cost of such service shall be automatically deducted from the account maintained by the inmate for that purpose, or the inmate shall set aside money from his/her account to be placed in a prepaid telephone account.

(b) No telephone service provider shall charge a customer rate for calls made from a prison in excess of rates charged for comparable calls made in non-prison settings. All rates shall reflect the lowest reasonable cost to inmates and call recipients.

(c) No concessions agreements for inmate telephone calling services shall include provisions for a commission payable to the state, nor shall any correctional institution impose a surcharge for telephone usage by inmates in addition to the charges imposed by the telephone service provider.

CREDIT(S)

P.L. 2006, ch. 162, § 1, eff. Aug. 1, 2007.

Gen. Laws, 1956, § 42-56-38.1, RI ST § 42-56-38.1

Current through chapter 407 of the January 2011 session

Act No. 245
Public Acts of 2008
Approved by the Governor*
July 18, 2008
Filed with the Secretary of State
July 18, 2008
EFFECTIVE DATE: July 18, 2008

*Item Vetoes

Sec. 105. FIELD OPERATIONS ADMINISTRATION

Intensive probation pilot program \$ 980,000 (Page 3)

Sec. 605.

Entire Section. (Page 19)

STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008

Introduced by Senator Cropsey

ENROLLED SENATE BILL No. 1095

AN ACT to make appropriations for the department of corrections and certain state purposes related to corrections for the fiscal year ending September 30, 2009; to provide for the expenditure of the appropriations; to provide for reports; to provide for the creation of certain advisory committees and boards; to prescribe certain powers and duties of the department of corrections, certain other state officers and agencies, and certain advisory committees and boards; to provide for the collection of certain funds; and to provide for the disposition of fees and other income received by certain state agencies.

The People of the State of Michigan enact:

...

Sec. 219. Any contract for prisoner telephone services entered into after the effective date of this act shall include a condition that fee schedules for prisoner telephone calls, including rates and any surcharges other than those necessary to meet special equipment costs, be the same as fee schedules for calls placed from outside of correctional facilities.

CALIFORNIA (2007-2008 session)

BILL NUMBER: SB 81 CHAPTERED

CHAPTER 175

FILED WITH SECRETARY OF STATE AUGUST 24, 2007

APPROVED BY GOVERNOR AUGUST 24, 2007

PASSED THE ASSEMBLY JULY 20, 2007

PASSED THE SENATE AUGUST 21, 2007

AMENDED IN ASSEMBLY JULY 19, 2007

AMENDED IN ASSEMBLY JULY 16, 2007

INTRODUCED BY Committee on Budget and Fiscal Review

JANUARY 17, 2007

An act to amend Sections 15819.40, 15819.401, 15819.41, 15819.411, and 15820.907 of the Government Code, to amend Sections 1557, 4016.5, 4750, 4758, 6005, 6051, 6126, 7000, and 7003.5 of, and to add Sections 2063, 3007, and 7050 to, the Penal Code, to amend Sections 208.5, 731, 736, 1731.5, 1766, 1767.3, and 1776 of, to amend and repeal Section 1798.5 of, to add Sections 731.1 and 1767.35 to, to add Chapter 1.5 (commencing with Section 1950) to Division 2.5 of, and to repeal and add Section 733 of, the Welfare and Institutions Code, relating to corrections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

...

SEC. 32. (a) Pursuant to applicable provisions of law, the Department of General Services, in coordination with the Department of Technology Services, shall amend any contracts that provide telephone services to wards and inmates in state facilities in order to limit the amount of state concession fees as follows:

(1) The concession fees shall be reduced to nineteen million five hundred thousand dollars (\$19,500,000) for the 2007-08 fiscal year.

(2) The concession fees shall be reduced to thirteen million dollars (\$13,000,000) for the 2008-09 fiscal year.

(3) The concession fees shall be reduced to six million five hundred thousand dollars (\$6,500,000) for the 2009-10 fiscal year.

(4) The concession fees shall be reduced to zero for the 2010-11 fiscal year and thereafter.

(b) Rates shall be reduced in response to reductions in concession Fees.

...