

### Fiscal Estimate - 2021 Session

Original    
  Updated    
  Corrected    
  Supplemental

<b>LRB Number</b> 21-3357/1	<b>Introduction Number</b> AB-0821	
<b>Description</b> intrastate telecommunications service and video communication service initiated from a telephone or video communication device designated for use by inmates in a jail or state prison, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority		
<b>Fiscal Effect</b>		
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs    3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs     4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>	
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.410(1)(a)		
<b>Agency/Prepared By</b> DOC/ Michael Slana (608) 240-5414	<b>Authorized Signature</b> Paulina Gutierrez (608) 240-5056	<b>Date</b> 3/25/2022

## Fiscal Estimate Narratives

DOC 3/25/2022

LRB Number	21-3357/1	Introduction Number	AB-0821	Estimate Type	Original
<b>Description</b> intrastate telecommunications service and video communication service initiated from a telephone or video communication device designated for use by inmates in a jail or state prison, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority					

### Assumptions Used in Arriving at Fiscal Estimate

This bill would prohibit the Department of Corrections (DOC) and counties from entering into contracts for intrastate telecommunications service or video communication service that is initiated from a telephone or video communication device designated for use by inmates in a jail or state prison (inmate telephone or video communication service), if those contracts do not comply with new rules DOC would need to promulgate per this bill.

The bill would require DOC to promulgate rules regarding the rates, tolls, and charges and the terms and conditions of inmate telephone or video communication services. Under the bill, these rules must follow the principle that inmates, whether convicted or awaiting trial, who place telephone calls or initiate video communication, and persons receiving telephone calls or video communication from inmates, should not be subject to rates, tolls, and charges that exceed those that major, national prepaid wireless telephone providers charge their customers.

The bill would also prohibit any rate, toll, or charge from being imposed for a telephone call or video communication with an inmate's attorney placed from a telephone or video communication device designated for use by inmates.

Before a county may enter into a contract for inmate telephone or video communication service, the bill would require the county to submit the contract to DOC for approval. Under the bill, DOC may not approve such a contract unless it complies with the new rules DOC would need to promulgate as directed by the bill. The bill provides that a county contract entered into without prior DOC approval is void.

DOC currently charges \$0.06 per minute for phone calls by persons in our (DOC's) care (PIOCs), though currently does not charge PIOC's for their first two calls per month. This bill specifies that PIOC's, and persons receiving telephone calls or video communications from PIOC's, "should not be subject to rates, tolls, and charges that exceed those that are charged to customers of major, national prepaid wireless telephone providers". Because some prepaid wireless plans include unlimited phone call minutes, it is difficult to compare DOC's charges against pricing for consumers in the private sector. Additionally, phone services available to general consumers are very different than phone services designed for use within a secure correctional environment, which further complicates a comparison between DOC's charges and general consumer pricing. Nevertheless, DOC does not expect that this 'market rate' requirement would have a significant fiscal impact with respect to PIOC phone calls, as DOC believes that the rate it charges for phone calls should be generally comparable to the market rate and thus not likely to exceed the standard imposed by the bill.

It is less clear how the rate DOC charges for PIOC video communication services compares with that of "customers of major, national prepaid wireless telephone providers", since consumers pay for wireless (or wired) data service, which they can use to run separate video communication software (which may be free or paid), whereas under its future video visitation service DOC plans to charge a flat rate for PIOC video visitations that can last a set amount of time (and does not charge PIOC's any additional costs, such as for

the cost of Internet access). Due to that significant structural difference, it is unclear how DOC's charge for PIOC video visitations compares with costs for consumers in the private sector, and therefore the fiscal impact of this requirement with respect to DOC's charge for video communication services is unknown. The rate DOC will be charging for PIOC video communication services (which covers the cost of the equipment and infrastructure to support the technology needed to offer video communications) is lower than average for other state correctional systems.

DOC does not normally pay for PIOC telephone calls with their attorneys. If this bill's prohibition on charges being imposed for a call with a PIOC's attorney went into effect, DOC will most likely need to cover the cost of those calls, which would have a potentially significant fiscal impact. The cost for attorney calls cannot be accurately estimated, as data is not available to fully separate all PIOC-attorney calls from all other types of calls by PIOCs.

The payment system currently in place as part of the DOC's PIOC phone call system poses a significant complication. Under this system, call fees can be deducted from a PIOC's account or covered by the attorney. This system doesn't have the capability to automatically waive fees for calls to a PIOC's attorney. The large volume of PIOC-attorney calls would make processing an individual payment reimbursement for each PIOC-attorney call highly staff-time intensive, and would necessitate the addition of multiple Financial Specialist positions to handle the added administrative workload. It also would require all attorneys seeking reimbursement to submit invoices to DOC, and for the attorneys to be set up to receive payments via the State's STAR (PeopleSoft) system.

Another alternative that was considered would be to allow PIOC-attorney calls to be made without fees over DOC's administrative phone system. However, this too would result in a substantial increase in workload, requiring staff to manually schedule and facilitate each PIOC-attorney call (tasks which are currently handled automatically by the PIOC phone call system). This added workload would require several additional positions, at a minimum at least one additional FTE per site for each of DOC's large correctional institutions, and a portion of a FTE's time at the smaller institutions or centers.

DOC does not currently have a specific process for video visits between PIOCs and their attorneys, but if in the future DOC were to offer that service, this bill would prohibit DOC from imposing any charges for that service, thereby requiring DOC to cover the full cost of those communications.

This bill would require DOC to review and approve county contracts for inmate telephone and video communications services. Reviewing and approving those contracts for all 72 counties would add significantly to the workload of DOC's purchasing team. DOC has no process in place for reviewing contracts for counties, and procurement/contracting rules and procedures vary greatly from county to county. Reviewing county contracts is well outside the procurement authorities delegated to DOC by the Department of Administration (DOA), and as such not something that DOC staff have training or experience doing at DOC. In order to take on this added responsibility, DOC would require additional staffing - likely at least a full-time Contracts Specialist-Advanced FTE position. A 1.00 FTE Contract Specialist-Advanced position would have an annualized cost of \$84,800 GPR, with one-time costs of \$9,600.

Similarly, this bill would add a new area of inspection for staff at DOC's Office of Detention Facilities (ODF), outside the scope of the office's current responsibilities. ODF staff would act as liaisons between DOC's procurement staff and the counties, and would need to work closely to assist in the process, particularly given that the counties differ in how they handle contracts. The scale of this added workload would necessitate adding an additional Detention Facilities Specialist to ODF, as the office's regions would need to be reconfigured to give each specialist a manageable workload. A 1.00 FTE Detention Facilities Specialist position would have an annualized cost of \$89,700 GPR, with one-time costs of \$5,800.

The fee inmates in local detention facilities are charged for telephone calls is determined at the county level. For any county that currently charges a rate "that exceed[s] those that are charged to customers of major, national prepaid wireless telephone providers" for inmate telephone calls or video communications,

this bill's requirements may result in decreased revenue. Similarly, if this bill's prohibition on charges being imposed for a telephone call or video communication with an inmate's attorney went into effect, any county that currently charges fees when inmates communicate with their attorney would most likely need to cover the cost of those communications.

### **Long-Range Fiscal Implications**