
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: SB 1008 **Hearing Date:** April 26, 2022
Author: Becker
Version: March 16, 2022
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Corrections: telecommunications*

HISTORY

Source: All of Us or None; Empowering Women Impacted by Incarceration; Insight Center for Community Economic Development; Jesse's Place Organization; Legal Services for Prisoners with Children; San Francisco Financial Justice Project; Sister Warriors Freedom Coalition; Western Center on Law & Poverty Worth Rises

Prior Legislation: SB 555 (Mitchell), vetoed in 2020
SB 1157 (Mitchell), vetoed in 2016
AB 1876 (Quirk), held in Senate Appropriations 2014
SB 81 (Comm. on Budget & Fiscal Rev.), Ch. 175, Stats. 2007
AB 230 (Leno), held in Assembly Appropriations in 2003

Support: Bay Area Legal Aid; California Attorneys for Criminal Justice; California Public Defenders Association; Center for Responsible Lending; Communities United for Restorative Youth Justice; Community Housing Partnership of San Francisco; Community Legal Services of East Palo Alto; East Bay Family Defenders; Ella Baker Center for Human Rights; Essie Justice Group; Felony Murder Elimination Project; Freedom 4 Youth; Friends Committee on Legislation of California; Glide; Impact Investors, Inc.; Indivisible California: StateStrong; Initiate Justice; Justice2Jobs Coalition; Lawyers' Committee for Civil Rights of the San Francisco Bay Area; National Consumer Law Center; Nia Impact Capital; Public Counsel; Returning Home Foundation; San Francisco-Marin Food Bank; Santa Cruz Barrios Unidos; Starting Over; Transformative In-Prison Workshop; Young Community Developers; over 600 individuals

Opposition: California State Sheriff's Association

PURPOSE

The purpose of this bill is to require each state prison and youth detention facility, county jail, city jail, and county youth detention facility to offer free voice communication services; mandate the ratio of devices to confined persons and number of devices per housing unit; impose a daily 120-minute access to voice communication requirement; and prohibit government agencies from generating revenue from those communication services contracts.

Existing law requires any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated to be deposited in the inmate welfare fund. (Pen. Code, § 4025, subd. (d).)

Existing law requires that the money and property deposited in the inmate welfare fund be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. (Pen. Code, § 4025, subd. (e).)

This bill requires a state prison or youth residential placement or detention center operated by the California Department of Corrections and Rehabilitation (CDCR) to provide persons in their custody and confined in a correctional or detention facility with voice communication services. Provides that voice communication services may be supplemented, but not supplanted, with other communication services, including, but not limited to, video communication and electronic mail or messaging services. Requires to the extent that a voice communication service or any other communication service is provided, each service be provided free of charge to the person initiating and the person receiving the communication.

This bill requires a state prison or youth residential placement or detention center to do all of the following:

- Maintain a 10 to 1 ratio of persons in custody to operable voice communication devices in each housing unit or recreational yard.
- Maintain at least two voice communication devices in each housing unit.
- Provide incarcerated persons with a minimum of 120 minutes of voice communication services per day, to the extent those services do not interfere with rehabilitative, educational, and vocational programming or regular facility operation.

This bill prohibits a state agency from receiving revenue from the provision of voice communication services or any other communication services to a person confined in a state correctional or detention facility.

This bill requires a county jail, city jail, or youth residential placement or detention center to provide persons in their custody and confined in a correctional or detention facility with voice communication services. Provides that voice communication services may be supplemented, but not supplanted, with other communication services, including, but not limited to, video communication and electronic mail or messaging services. Requires to the extent that a voice communication service or any other communication service is provided, each service be provided free of charge to the person initiating and the person receiving the communication.

This bill requires a county jail, city jail, or youth residential placement or detention center to do all of the following:

- Maintain a 10 to 1 ratio of persons in custody to operable voice communication devices in each housing unit or recreational yard.
- Maintain at least two voice communication devices inside each housing unit.
- Provide incarcerated persons with a minimum of 120 minutes of voice communication services per day, to the extent that those services do not interfere with rehabilitative, educational, and vocational programming or regular facility operation.

This bill prohibits a county or city agency from receiving revenue from the provision of voice communication services or any other communication services to any person confined in a state or local correctional or detention facility.

This bill includes several uncodified legislative declarations and findings.

COMMENTS

1. Need For This Bill

According to the author:

Telecommunication costs for currently incarcerated people and their families are an unnecessary financial barrier to basic communication. These services include phone calls, video conferencing, electronic messages, and other communication services. Currently counties are capped at 7 cents per minute on phone calls, with money that must be preloaded into the county-by-county telecom systems. Charging rates for basic communication services creates an additional cost burden for the integral connection between incarcerated people and their families.

...

Studies show disconnection from family and personal support systems creates mental health problems for the currently incarcerated and their families. Research also shows that incarcerated people who are able to keep in frequent contact with their loved ones are more successful re-entering society than those who have limited or no contact.

But the high costs of keeping in contact drive more than 1 in 3 families, who already are financially strapped, into debt for phone calls and visits with their loved ones ... Overwhelmingly, the study found, the costs of staying connected were shouldered by families, and 87% of the family members bearing the financial responsibility were women. ... The state also operates on a county-by-county system for telecommunication fees, which creates additional problems if an incarcerated person is transferred to another county. Loved ones who preloaded money into the previous county's communication portal must then request a refund in an often lengthy and complicated process. Doing so often delays essential communications even further, and exacerbates feelings of isolation for the incarcerated family member.

For years, the basic costs for phone and video calls in prisons and county jails varied widely among the facilities with other charges tacked on as related telecom fees. The added fees made up as much as a third of the total expense for families keeping in touch. Cost for emails, which are subject to telecom charges that also vary, have depended on their length and whether photos are included.

SB 1008 eliminates fees charged for telephone and other communication services between people held in local jails and state prisons and loved ones on the outside. Free communication services will support strong relationships between

incarcerated people and their loved ones, promoting successful reentry and reducing recidivism. SB 1008 will also support reentry by making outside resources more accessible to all parties, without the additional fees associated with basic communication. By establishing free communication, incarcerated people can connect with their support systems to plan for their release, including finding a job and housing. Support systems and communication are an integral part of the human experience. Cutting incarcerated people off from their loved ones hurts the individual, the family, and a chance at successful reintegration.

2. Access to Phone Services

One of the primary ways that people who are incarcerated maintain contact with loved ones is via phone calls. CDCR regulations require each facility to provide “inmate telephones” for use by incarcerated individuals consistent with their assigned privilege group. (Cal. Code Regs., tit. 15, § 3282, subd. (b).) “Inmate telephone” is defined as “a telephone designated solely to accommodate inmate-originated non-confidential personal calls.” (Cal. Code Regs., tit. 15, § 3282, subd. (a).) Incarcerated individuals may place phone calls to persons outside the facility at designated times and on designated phones, as set forth in local procedures. (Cal. Code Regs., tit. 15, § 3282, subd. (b).) Regulations specify that limitations may be placed on the frequency and length of such calls based on the incarcerated person’s privilege group, and to ensure equal access. (Cal. Code Regs., tit. 15, § 3282, subd. (b).) California’s county jails and juvenile facilities have different policies in place with respect to usage of phones by the incarcerated population.

3. Phone Service in Correctional Facilities

Prisons and jails contract with private companies to provide and manage telephone service for their institutions. These phone systems provide features such as enabling certain numbers from being blocked and allowing correctional staff to monitor calls. The price of jail and prison phone calls has come under scrutiny in the past several years. (*See* <<https://www.forbes.com/sites/janetwburns/2019/02/28/in-2019-phone-calls-remain-a-luxury-in-jail/#765dcc9b1185>>; <<https://www.nytimes.com/2015/03/31/us/steep-costs-of-inmate-phone-calls-are-under-scrutiny.html?action=click&module=RelatedCoverage&pgtype=Article®ion=Footer>>; <<https://money.cnn.com/2016/03/09/technology/prison-phones/index.html>>.) According to an article published in 2015:

[T]he prison phone system is now a \$1.2 billion-a-year industry dominated by a few private companies that manage phones in prisons and jails in all 50 states, setting rates and fees far in excess of those established by regular commercial providers. The business is so considerable — some 500 million prison and jail phone calls totaling more than six billion minutes in 2014 — that it has caught the eye of private equity firms. (<<https://www.nytimes.com/2015/03/31/us/steep-costs-of-inmate-phone-calls-are-under-scrutiny.html?action=click&module=RelatedCoverage&pgtype=Article®ion=Footer>>.)

Current rates

In December 2020, CDCR entered into a new six-year communications contract with Global Tel*Link. According to the department, this new contract with a new service provider resulted in

significant reductions in the cost of phone calls, video calls, e-mails, and other communication and technology services provided to individuals and their families. The current rate for in-state and out-of-state phone calls is \$0.025 per minute, for video calls is \$0.20 per minute, and for sending or receiving an e-mail or other electronic message is \$0.05 per message. CDCR also provides fifteen minutes of free phone calls and fifteen minutes of free video calls every two weeks to each incarcerated individual. Phone calls for youth housed in Division of Juvenile Justice facilities is free.

Each county negotiates its own contract with a communications service provider to provide phone or other communication services in the county jails. As a result, rates for phone calls, video calls, and other services vary by county. For example, all phone calls placed from San Francisco County jails are free as of August 2020. The county was able to do so after negotiating a flat rate with the service provider rather than paying the vendor per minute per call as the families of incarcerated individuals had previously done.

([https://www.sfsheriff.com/sites/default/files/2020-](https://www.sfsheriff.com/sites/default/files/2020-08/08.10.20%20Press%20Release%20Free%20Jail%20Calls.pdf)

08/08.10.20%20Press%20Release%20Free%20Jail%20Calls.pdf) As of July 2021, all phone calls and video visits in San Diego County adult and juvenile facilities are free.

([https://www.sandiegouniontribune.com/news/watchdog/story/2021-05-05/new-san-diego-](https://www.sandiegouniontribune.com/news/watchdog/story/2021-05-05/new-san-diego-county-policy-makes-jail-phone-calls-free-but-shorter)

county-policy-makes-jail-phone-calls-free-but-shorter) In-state calls had previously cost 33 cents per minute, and out-of-state calls had cost 21 cents per minute which reflected a rate cap imposed by the Federal Communications Commission. (*Id.*) Under San Diego County's new policy, each incarcerated person will be limited to one 15-minute phone call every three hours to allow for rotation of phone users which is a departure from the unlimited number of 30-minute phone calls that an incarcerated person could make under the former policy. (*Id.*) Most county jails continue to charge for phone calls although the rates have been temporarily capped by the California Public Utilities Commission at \$0.07 per minute for intrastate calls.

(<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M400/K629/400629229.PDF>)

Concession fees

Advocates argue that jail phone call rates are excessively high due in part to the concession fees, also known as commissions, that phone service providers pay to state and local prison systems in exchange for exclusive contracts. In 2007, the Legislature approved SB 81 (Comm. on Budget and Fiscal Review), Chapter 175, Statutes of 2007. Among its many provisions, SB 81 directed a four-year phase out of concession fees in phone service contracts for state correctional facilities. According to a past analysis produced by this committee, "SB 81 eliminated the \$26 million concession fee the vendor paid to the State General Fund by reducing it by \$6.5 million each fiscal year until it became zero in FY 2010/2011." (Sen. Com. on Public Safety, Analysis of Assem. Bill 1876 (2013-2014 Reg. Sess.) as amended Jun. 10, 2014, p. 7.) As a result, phone rates for calls made from the state's prisons decreased significantly. (*Id.*)

The concession fees of the state's county jails were not affected by SB 81. A recent paper published by the Prison Policy Initiative highlighted the disparity between phone rates in local correctional facilities and state prisons throughout the country.

(https://www.prisonpolicy.org/phones/state_of_phone_justice.html.) The paper reported the

following California-specific data: The highest cost of a 15-minute intrastate call from a jail in

2018 was \$17.80, the average cost of a 15-minute intrastate call from a jail was \$5.70, and the

cost of a 15-minute intrastate call from a state prison was \$2.03. (*Id.*) High phone rates have been

the subject of numerous lawsuits. (*See* [http://www.ktvu.com/news/3-more-bay-area-counties-](http://www.ktvu.com/news/3-more-bay-area-counties-sued-over-high-jail-phone-rates)

[sued-over-high-jail-phone-rates](http://www.ktvu.com/news/3-more-bay-area-counties-sued-over-high-jail-phone-rates);

filed-against-excessive-phone-rates-for-ja/> [as of Apr. 20, 2022].) Notably, any money, refund, rebate, or commission received from a phone service provider that is attributable to the paid use of phones by the incarcerated population must be deposited into an inmate welfare fund which is intended primarily for the benefit, education, and welfare of the individuals confined within the jail. (Pen. Code, § 4025.)

SB 555 (Mitchell) of the 2019-2020 legislative session would have capped rates for phone and video communications and prohibited certain communication service related fees from being imposed. The bill was vetoed.

4. What This Bill Does

This bill makes a number of changes to existing policies as they relate to access to phone calls, phone rates, and revenue generation related to communication services in the state's prisons and youth detention facilities, as well as county jails, city jails, and county juvenile facilities. Specifically, this bill requires CDCR facilities and county jails, city jails, and county juvenile facilities to provide persons in their custody with voice communication services. This bill specifies that those services may be supplemented but not replaced by other communication services, including, but not limited to, video communication and e-mail or messaging services. This bill further requires that that communication services provided are free of charge to the person initiating and the person receiving the communication. Additionally, this bill requires that all CDCR facilities, county jails, city jails, and county juvenile facilities do all of the following: maintain a 10 to 1 ratio of persons in custody to operable voice communication devices in each housing unit or recreational yard; maintain at least two voice communication devices in each housing unit; and provide incarcerated persons with a minimum of 120 minutes of voice communication services per day, to the extent those services do not interfere with rehabilitative, educational, and vocational programming or regular facility operation. Finally, this bill prohibits a state, county, or city agency from receiving revenue from the provision of voice communication services or any other communication services to a person confined in a state correctional or detention facility.

This bill raises a number of questions that the Committee may wish to consider:
Is the ratio of voice communication devices to confined persons reasonable? (e.g., a 300-person housing unit would be required to have 30 phones)

How many phones/devices would each jail or prison need to add to meet this requirement?
Should state facilities, county jails, and county juvenile facilities all be treated the same with respect to the mandates in the bill?

How much does the minimum daily access to voice communication services requirement deviate from the norm at CDCR and county facilities? Does the qualifier language (i.e., "to the extent those services do not interfere with rehabilitative, educational, and vocational programming") apply to individuals or the facility overall?

Does the requirement that all communication services must be provided for free create a disincentive for CDCR, a county jail, etc. to offer optional communication services?
Should this bill include a provision to specify that it only applies to contracts entered into or renewed after a specified future date (e.g., January 1, 2023) so as not to interfere with existing contracts?

5. Argument in Support

According to Legal Services for Prisoners with Children, one of the bill's sponsors:

Research from the Ella Baker Center has shown that 1 in 3 families with an incarcerated loved one goes into debt over the cost of communication and visits, and 87% of those carrying these costs are women, disproportionately Black and Brown women. SB 1008 would eliminate the costs of these communication services and ensure that incarcerated people remain connected with their loved ones and support systems.

By making communication services from county jails, juvenile halls, and state prisons free, SB 1008 would strengthen the wealth and safety of low-income Black and Brown communities. Maintaining family and community connection and economic stability while incarcerated is key to successful reentry. Research shows that incarcerated individuals who maintain ties with their support networks have higher success rates and lower recidivism rates upon release. But because of the exorbitant costs of phone calls and other communication services, incarcerated people often lose connection with support systems on the outside. This can have serious mental health implications and makes the process of preparing for reentry even more difficult. And, while some of the money that incarcerated people pay for communication services funds education and rehabilitative programs, these programs should be supported by the General Fund instead of through a regressive scheme of double taxation on families with incarcerated loved ones.

SB 1008 is part of the growing statewide and national movement led by incarcerated people and their loved ones. In August 2020, San Francisco became the first California county to make all jail phone calls free. And in 2021, Connecticut became the first state to make prison phone calls free. San Diego County announced that all phone calls from its county jails and juvenile facilities would be free, and Los Angeles County announced it will be exploring how it can do the same. Furthermore, the California Public Utilities Commission temporarily capped phone call rates on all intrastate phone calls made by incarcerated people at 7 cents per minute, the lowest such cap in the country. However, only the legislature has the authority to bring lasting and meaningful statewide relief from these communication services by passing SB 1008 and making phone calls free.

6. Argument in Opposition

The California State Sheriff's Association writes:

We understand the importance of communication between incarcerated persons and their families and friends. Unfortunately, this bill will be nearly logistically impossible to implement. Establishing a one-size-fits-all approach in terms of rations of communication devices to persons neglects different realities among the county jails. Further, it is unclear how jails will offer every inmate two hours of voice communications per day without interfering with other operations.

Under current law, financial proceeds from inmate communications contracts must go to the county's inmate welfare fund (IWF) and must be used primarily for

the benefit of inmates. Many counties pay for vital rehabilitative and treatment programs out of the IWF and irrespective of one's thoughts on that policy, the reality is that there will likely not be funds available to backfill the loss revenue that would result from the bill's requirement that a county may not receive revenue from the provision of inmate communications services.

We are willing to participate in a discussion about funding for vital programs and services in jails, but SB 1008 takes away existing financial supports, imposes huge new costs, and fails to provide specific funding to cover the costs of providing communication services of backfilling the revenue that will be lost.

-- END --