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SB-1008 Corrections: communications. (2021-2022)

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Senate Bill No. 1008

CHAPTER 827

An act to add Section 2084.5 to the Penal Code, to add Section 2899 to the Public Utilities Code, and to add Section 208.1 to the Welfare and Institutions Code, relating to corrections.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1008, Becker. Corrections: communications.

Existing regulation requires that a state prison provide a prisoner with use of a telephone consistent with their assigned privilege group. Existing law provides that the sheriff of each county may maintain an inmate welfare fund to be kept in the treasury of the county into which, among other funds, any rebates or commissions received from a telephone company attributable to the use of pay telephones that are primarily used by inmates, is required to be deposited. Existing law contains numerous provisions governing the incarceration and detention of juveniles, including the right to maintain and continue frequent contacts with family members through telephone calls for those confined in a facility of the Division of Juvenile Facilities.

This bill would require that a state prison, or a state, county, or city youth residential placement or detention center provide voice communication services to incarcerated persons free of charge to the person initiating and the person receiving the communication, subject to the operational discretion of the Department of Corrections and Rehabilitation in a state-operated facility, as specified. The bill would prohibit a county, city, or state agency from receiving revenue for the provision of communication services to persons in its custody. To the extent this bill would mandate that a local government provide a new program or higher level of service, the bill would impose a state-mandated local program.

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to require telephone corporations to provide customer service to telecommunication customers that includes, but is not limited to, reasonable statewide service quality standards.

This bill would require the commission to establish service quality standards for incarcerated persons calling services, as defined, to be adhered to by communication service providers rendering services to state or local correctional or detention facilities.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of a commission action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for specified reasons.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) There is an imperative to protect incarcerated Californians and their loved ones from detrimental practices by private corporations providing goods and services to people confined in carceral facilities throughout the state.

(b) Jail and prison telecommunications is a \$1,400,000,000 industry dominated by a few corporations that charge high rates for communication. This industry is consistently diversifying the array of communications services it provides to jails and prisons, which now includes phone calls, video conferencing, electronic messages, and other communication services. Incarcerated people and their support networks must be protected from its exorbitant costs across these and future communication services.

(c) The high cost of jail and prison communications services are a significant economic drain, extracting tens of millions of dollars from low-income people and disproportionately impacting Black and Brown communities in California. Research from the Ella Baker Center for Human Rights has shown that one in three families with an incarcerated loved one goes into debt over the cost of communication and visits, and 87 percent of those carrying these costs are women, disproportionately Black and Brown women.

(d) Maintaining family and community connection and economic stability while incarcerated is key to successful reentry, and it is therefore in the interest of all Californians to reduce the economic burden associated with communication in jails and prisons. Families play a major role in reentry. Many incarcerated people will reside with their families after release. Research shows that incarcerated individuals who maintain ties with their support networks have higher success rates and lower recidivism rates upon release.

(e) Programs and services currently provided in jails and prisons are in the interest of community safety and well-being by providing education and rehabilitation, and thus must be supported by General Fund dollars rather than commissions on communication costs paid by families with incarcerated loved ones, who are also taxpayers.

(f) There is national momentum to provide communication services in jails and prisons at no cost to incarcerated people and their support networks. New York City was the first city jail system to do so in 2018 and Connecticut was the first state prison system to do so in 2021. There are now active campaigns in more than a dozen states across the country, including Massachusetts, Michigan, New York, and Virginia, among others.

(g) There is local support for providing free communications services to incarcerated people and their loved ones. A 2019 poll commissioned by Worth Rises showed that 69 percent of Californians support free communication in jails and prisons. Additionally, the City and County of San Francisco and the County of San Diego have made all phone calls from county jails and juvenile facilities free and the County of Los Angeles has also declared its intent to do the same.

SEC. 2. Section 2084.5 is added to the Penal Code, to read:

2084.5. (a) A state prison or youth residential placement or detention center operated by the Department of Corrections and Rehabilitation shall provide persons in their custody and confined in a correctional or detention facility with accessible, functional voice communication services free of charge to the person initiating and the person receiving the communication. The Department of Corrections and Rehabilitation shall have operational discretion in implementing this subdivision such that free voice communication services do not interfere with necessary programming.

(b) A state agency shall not receive revenue from the provision of voice communication services or any other communication services to a person confined in a state correctional or detention facility.

SEC. 3. Section 2899 is added to the Public Utilities Code, to read:

2899. (a) For purposes of this section, "incarcerated persons calling services" means communication services rendered to incarcerated persons, including, but not limited to, voice communications.

(b) The commission shall establish service quality standards for incarcerated persons calling services to be adhered to by communication service providers rendering services to state or local correctional or detention facilities.

SEC. 4. Section 208.1 is added to the Welfare and Institutions Code, to read:

208.1. (a) A county or city youth residential placement or detention center shall provide persons in their custody with accessible, functional voice communication services free of charge to the person initiating and the person receiving the communication.

(b) A county or city agency shall not receive revenue from the provision of voice communication services or any other communication services to any person confined in a county or city youth residential placement or detention center.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution to the extent that the costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

To the extent that this act has an overall effect of increasing certain costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.