

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1366
 Judiciary

(Delegate Roberson, *et al.*)

State Correctional Facilities – Incarcerated Individuals – Costs of Telephone Communications

This bill prohibits a State correctional facility and a telephone service provider from charging an incarcerated individual or a third party, including the recipient of a telephone call, for an incarcerated individual’s use of telephone equipment or telephone services in a State correctional facility. It further establishes that a State correctional facility is responsible for the payment of any cost charged by a telephone service provider for such equipment and services. The bill also makes changes related to (1) an incarcerated individual’s access to or use of telephone equipment and services and (2) the composition of incarcerated individual welfare funds. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$7.4 million annually beginning in FY 2026. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	7,400,000	7,400,000	7,400,000	7,400,000	7,400,000
Net Effect	(\$7,400,000)	(\$7,400,000)	(\$7,400,000)	(\$7,400,000)	(\$7,400,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies only to telephone equipment or a telephone service authorized by a State correctional facility for use by an incarcerated individual in the facility.

A State correctional facility is responsible for the payment of any cost charged by a telephone service provider for the use of telephone equipment and a telephone service by an incarcerated individual who is confined in the facility; however, this provision may not be interpreted to require a State correctional facility to pay a cost that the facility disputes is owed to a telephone service provider.

The bill also specifies that an incarcerated individual's access to or use of telephone equipment and services may not supplant time that the incarcerated individual is entitled to in-person visitation.

Finally, the composition of incarcerated individual welfare funds is altered to remove profits derived from telephone commissions.

Current Law: There is an incarcerated individual welfare fund in each State correctional facility that is used by the facility for goods and services that benefit the general incarcerated individual population, including education and vocational training and support of the grievance process for incarcerated individuals. Each fund, which is a special nonlapsing fund, consists of (1) profits derived from the sale of goods through the commissary operation and *telephone* and vending machine commissions and (2) money received from other sources, except as specified. Accordingly, pursuant to statute, funds generated from telephone calls by incarcerated individuals are deposited into the incarcerated individual welfare funds.

State Fiscal Effect: General fund expenditures increase by *at least* \$7.4 million annually beginning in fiscal 2026 due to the bill's provisions that (1) require a State correctional facility to be responsible for the payment of any cost charged by a telephone service provider for the use of telephone equipment and a telephone service by incarcerated individuals confined in the facility and (2) prohibit a State correctional facility and a telephone service provider from charging an incarcerated individual or a third party (including the recipient of a telephone call) for an incarcerated individual's use of telephone equipment or telephone services in a State correctional facility.

The Department of Public Safety and Correctional Services (DPSCS) advises that telephone services for incarcerated individuals are handled by an outside vendor and paid for through (1) the purchase of prepaid telephone services via the commissary by the incarcerated individual; (2) direct payment to the telephone service provider by a

third party; and (3) collect calls charged to a third party. The telephone service charges include the service, equipment, and monitoring of phone calls. This estimate reflects an average of the annual fees paid for telephone service by incarcerated individuals and third parties from fiscal 2021 through 2023, as reported by DPSCS and shown in **Exhibit 1**. As show in the exhibit, such costs have increased over the last three years. In addition, because incarcerated individuals will no longer be responsible for payment for telephone services under the bill, the demand for telephone services may increase; thus, the actual increase in general fund expenditures in any given year may be significantly higher than this estimate.

Exhibit 1
Telephone Service Fees Paid
Fiscal 2021-2023

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Commissary Prepaid	\$1,043,674	\$1,251,129	\$1,336,299
Direct Prepaid and Collect Calls	4,719,202	5,470,843	8,287,145
Total	\$5,762,876	\$6,721,972	\$9,623,444

Source: Department of Public Safety and Correctional Services

DPSCS advises that the current contract for telephone calls by incarcerated individuals is not a revenue-generating source for the department; thus, since fiscal 2016, no funds from telephone calls by incarcerated individuals have been deposited into incarcerated individual welfare funds. Accordingly, the bill’s provision that repeals telephone-related profits from the revenue sources of such funds has no effect on State finances.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 948 (Senators Waldstreicher and Carter) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services; Department of Juvenile Services; Public Service Commission; Department of Legislative Services

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js/lgc

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