



## Testimony for the House Judiciary Committee

Thursday, March 7th, 2024

### HB 1366 – State Correctional Facilities – Incarcerated

Individuals –

Costs of Telephone Communications

**FAVORABLE**

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The ACLU of Maryland supports HB 1366, which would provide that State correctional facilities bare the payment of costs charged by telephone service providers and alleviate the financial burden on incarcerated individuals and their families, ultimately protecting the rights of incarcerated individuals and fostering a positive mindset geared toward successful reentry into society.

Prohibiting incarcerated individuals from communicating with the outside world can violate the First Amendment to the United States Constitution.<sup>1</sup> The United States Supreme Court has ruled that the First Amendment entitles incarcerated individuals to receive and send mail, subject only to the institution's need to protect security, and it also affords the rights of free people to communicate with incarcerated individuals. The exorbitant costs of telephone communications is an issue that lends itself to restrictive policies that harm not only the incarcerated individual, but also their families, friends, and the public. Communication between incarcerated individuals and the outside world permits these individuals to preserve ties with their families and friends, while also allowing the public a means of oversight over these correctional facilities.<sup>2</sup>

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<sup>1</sup> American Civil Liberties Union. (2024). Free Speech in Prison. Retrieved from <https://www.aclu.org/issues/prisoners-rights/civil-liberties-prison/free-speech-prison#:~:text=The%20Supreme%20Court%20has%20made,people%20to%20communicate%20with%20prisoners.>

<sup>2</sup> *Id.*

## **Lack of Access Negatively Affects Positive Reentry into Society**

Access to telephone services is beneficial for maintaining relationships with communities outside of prison or jail, easing stress, and boosting morale.<sup>3</sup> Lack of communication would place incarcerated individuals at a larger disadvantage as they would not receive the positive emotional benefits that other incarcerated individuals receive from telephone access. Such access is important for incarcerated individuals with limited literacy, as alternative communications like sending or receiving letters would be more difficult, and in-person visits can be unfeasible depending on the location of the incarcerated individual and their community.<sup>4</sup> This would cause them to be even more isolated from their home community, making it harder for reintegration into society after they have served their sentence.<sup>5</sup>

Studies show that when incarcerated individuals stay connected to their support networks, they can play an active role in their own rehabilitation, and they are also better able to plan for release, increasing their likelihood of reentering successfully and enhancing public safety.<sup>6</sup> Incarcerated individuals whose families cannot afford these communication services are often cut off entirely, with grave consequences for their reentry success and public safety.<sup>7</sup> Statistics show that about 65 percent of Maryland families struggle to meet basic housing and food needs and are being forced to make the tough decision between providing financially for their family and paying for a telephone call to their loved one who is incarcerated.<sup>8</sup>

## **Providing Agency-Sponsored Calls to Incarcerated Individuals Free of Charge Eliminates the Mental Strain and Financial Burden of Staying Connected**

Jails and prisons often choose their telecom providers based on which company will pay the facility the most money in kickbacks.<sup>9</sup> As a result, one in three families with an incarcerated loved one falls into debt trying to stay connected and the most impoverished families end up paying higher rates than anyone else to stay

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<sup>3</sup> Webster, Daniel (2024, January 18). The Cost of Communication: How Jails and Prisons Charged Incarcerated Persons for Phone Use. Georgetown Journal on Poverty Law and Policy. Retrieved from <https://www.law.georgetown.edu/poverty-journal/blog/the-cost-of-communication-how-jails-and-prisons-charge-incarcerated-persons-for-phone-use/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Connecting Families Coalition of Maryland. (2024, January 9). The Connecting Families Coalition Urges the Maryland Legislature to Make Prison and Jail Communications Free in the 2024 Legislative Session. Retrieved from <https://connectfamiliesnow.com>.

<sup>7</sup> Worth Rises. (2024, January). Maryland Prison and Jail Communication Costs. Retrieved from <https://worthrises.org>.

<sup>8</sup> Connecting Families Coalition of Maryland. (2024, January 9). The Connecting Families Coalition Urges the Maryland Legislature to Make Prison and Jail Communications Free in the 2024 Legislative Session. Retrieved from <https://connectfamiliesnow.com>.

<sup>9</sup> Wagner, Peter, and Wanda Bertram. (2022, December). State of Phone Justice 2022: The Problem, The Progress, and What's Next. Prison Policy Initiative. Retrieved from [https://www.prisonpolicy.org/phones/state\\_of\\_phone\\_justice\\_2022.html](https://www.prisonpolicy.org/phones/state_of_phone_justice_2022.html).

connected with their loved ones. In its 2022 report, Prison Policy Initiative offered recommendations for state and local governments that included enacting legislation to provide agency-sponsored calls for people in prisons and jails containing a “technological parity” provision guaranteeing that other communications services, such as video calling and electronic messaging, are also provided for free to prevent the prisons and jails from using these communications services to make up for lost voice calling revenue.<sup>10</sup> States such as Connecticut, Minnesota, and California have already begun providing state sponsored calls to incarcerated individuals, and while the state is responsible for paying for telephone communications, it has a stake in keeping the rates low.<sup>11</sup> Preventing telecommunications companies from circumventing state legislation geared toward protecting the rights of incarcerated individuals and its free citizens should be a top priority for the State of Maryland.

Ensuring that one’s right to communication is not reliant on one’s financial situation is an ongoing fight, but HB 1366 is a step in the right direction. For the forgoing reasons, the ACLU of Maryland urges a favorable vote on HB 1366.

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

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