



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5361/1
EHS:skw&emw

2021 SENATE BILL 800

December 17, 2021 - Introduced by Senators JOHNSON, AGARD, CARPENTER and ROYS, cosponsored by Representatives BALDEH, GOYKE, HONG, STUBBS, CONLEY, ANDRACA, SNODGRASS, SHELTON, ANDERSON, BROSTOFF, CABRAL-GUEVARA, CONSIDINE, DRAKE, EMERSON, HAYWOOD, HEBL, MOORE OMOKUNDE, L. MYERS, OHNSTAD, ORTIZ-VELEZ, POPE, SINICKI, SPREITZER, SUBECK, VINING and VRUWINK. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to renumber and amend* 301.105; *to amend* 20.410 (1) (gt); *to repeal*
2 *and recreate* 301.105 (title); and *to create* 301.105 (1g) and (2m) of the
3 statutes; **relating to:** intrastate telecommunications service and video
4 communication service initiated from a telephone or video communication
5 device designated for use by inmates in a jail or state prison, extending the time
6 limit for emergency rule procedures, providing an exemption from emergency
7 rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Corrections 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 rules promulgated by DOC.

The bill requires DOC to promulgate rules regarding the rates, tolls, and charges and the terms and conditions of inmate telephone or video communication service. 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

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major, national prepaid wireless telephone providers charge their customers. The bill also prohibits 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 requires the county to submit the contract to DOC for approval. Under the bill, DOC may not approve such a contract unless it complies with its rules. The bill provides that a county contract entered into without prior DOC approval is void.

Under the bill, a DOC contract for inmate telephone or video communication service that violates DOC rules is void.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.410 (1) (gt) of the statutes is amended to read:

2 20.410 (1) (gt) *Telephone company commissions.* The amounts in the schedule
3 to purchase for inmates. All moneys received under s. 301.105 ~~(2)~~ (1m) (b) shall be
4 credited to this appropriation account.

5 **SECTION 2.** 301.105 (title) of the statutes is repealed and recreated to read:

6 **301.105 (title) Inmate telecommunications and video communication**
7 **services.**

8 **SECTION 3.** 301.105 of the statutes is renumbered 301.105 (1m), and 301.105
9 (1m) (a) and (b), as renumbered, are amended to read:

10 301.105 **(1m)** (a) Deposit two-thirds of all moneys collected under this ~~section~~
11 subsection in the general fund as general purpose revenue-earned.

12 (b) Credit one-third of all moneys collected under this ~~section~~ subsection to the
13 appropriation account under s. 20.410 (1) (gt).

14 **SECTION 4.** 301.105 (1g) and (2m) of the statutes are created to read:

15 301.105 **(1g)** In this section:

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1 (a) "Inmate telephone or video communication service" means intrastate
2 telecommunications service or video communication service that is initiated from a
3 telephone or video communication device designated for use by inmates in a jail or
4 prison.

5 (b) "Telecommunications provider" has the meaning given in s. 196.01 (8p).

6 (c) "Video communication device" means a device that allows the use of video
7 communication service.

8 (d) "Video communication service" means synchronous 2-way video
9 communication over the Internet.

10 (e) "Video communication service provider" means any person who provides
11 video communication service.

12 **(2m)** (a) The department may not enter into a contract with a
13 telecommunications provider or video communication service provider to provide
14 inmate telephone or video communication service unless the contract complies with
15 rules promulgated by the department under par. (c). A contract entered into in
16 violation of this paragraph is void.

17 (b) A county may not enter into a contract with a telecommunications provider
18 or video communication service provider to provide inmate telephone or video
19 communication service unless the county submits the contract to the department for
20 approval. The department may not approve a county contract under this paragraph
21 unless the contract complies with rules promulgated by the department under par.

22 (c). A contract entered into in violation of this paragraph is void.

23 (c) The department shall promulgate rules governing the rates, tolls, and
24 charges and the terms and conditions of inmate telephone or video communication
25 service. In promulgating these rules, the department shall follow the general

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1 principle that inmates, whether convicted or awaiting trial, who place telephone
2 calls or initiate video communication, and persons who receive telephone calls or
3 video communication from inmates, should not be subject to rates, tolls, and charges
4 that exceed those that are charged to customers of major, national prepaid wireless
5 telephone providers.

6 (d) The department shall do all of the following in the rules promulgated under
7 par. (c):

8 1. Prohibit the imposition of any rate, toll, or charge for a telephone call or video
9 communication with an inmate's attorney placed from a telephone or video
10 communication device designated for use by inmates in a jail or prison.

11 2. Require reasonable disclosure of all rates, tolls, and charges for inmate
12 telephone or video communication service to the party that is billed for the service.

13 **SECTION 5. Nonstatutory provisions.**

14 (1) The department of corrections may promulgate emergency rules under s.
15 227.24 to implement s. 301.105 (2m). Notwithstanding s. 227.24 (1) (c) and (2),
16 emergency rules promulgated under this subsection remain in effect until January
17 1, 2024, or the date on which permanent rules take effect, whichever is sooner.
18 Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide
19 evidence that promulgating a rule under this subsection as an emergency rule is
20 necessary for the preservation of the public peace, health, safety, or welfare and is
21 not required to provide a finding of emergency for a rule promulgated under this
22 subsection.

23 **SECTION 6. Initial applicability.**

24 (1) The renumbering and amendment of s. 301.105, the repeal and recreation
25 of s. 301.105 (title), and the creation of s. 301.105 (1g) and (2m) first apply to a

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1 contract entered into between the department of corrections and a
2 telecommunications provider, as defined in s. 301.105 (1g) (b), or video
3 communication service provider, as defined in s. 301.105 (1g) (e), or between a county
4 and a telecommunications provider or video communication service provider on July
5 1, 2023.

6 (2) The rules promulgated under s. 301.105 (2m) first apply to a contract
7 entered into between the department of corrections and a telecommunications
8 provider, as defined in s. 301.105 (1g) (b), or video communication service provider,
9 as defined in s. 301.105 (1g) (e), or between a county and a telecommunications
10 provider or video communication service provider on July 1, 2023.

11 (END)