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SENATE BILL 6352

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State of Washington

58th Legislature

2004 Regular Session

By Senators Stevens, Hargrove, Esser, Schmidt, Poulsen, Berkey, McAuliffe and Kohl-Welles

Read first time 01/19/2004. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to selection of telephone calling systems for  
2 inmates in state correctional facilities; amending RCW 9.73.095; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the current  
6 telephone service for inmate calls from department of corrections  
7 facilities is based on outdated technology that provides neither the  
8 most secure nor the most accountable system available and is provided  
9 at a high cost to inmate families. The legislature, in budget  
10 provisions, has required the secretary of corrections to investigate  
11 other systems as inmate telephone service contracts came due for  
12 renewal. The legislature now finds that the current statute prevents  
13 the secretary of corrections from using systems that provide greater  
14 security, more inmate accountability, and lower costs. Therefore, the  
15 legislature intends to remove this barrier while retaining the intent  
16 of the statute to provide safe, accountable, and affordable telephone  
17 services.

1       **Sec. 2.** RCW 9.73.095 and 1998 c 217 s 2 are each amended to read  
2 as follows:

3       (1) RCW 9.73.030 through 9.73.080 and 9.73.260 shall not apply to  
4 employees of the department of corrections in the following instances:  
5 Intercepting, recording, or divulging any telephone calls from an  
6 inmate or resident of a state correctional facility; or intercepting,  
7 recording, or divulging any monitored nontelephonic conversations in  
8 inmate living units, cells, rooms, dormitories, and common spaces where  
9 inmates may be present. For the purposes of this section, "state  
10 correctional facility" means a facility that is under the control and  
11 authority of the department of corrections, and used for the  
12 incarceration, treatment, or rehabilitation of convicted felons.

13       (2)(a) All personal calls made by inmates shall be ((collect calls  
14 only)) made using a calling system approved by the secretary of  
15 corrections. The calls ((will)) shall be "operator announcement" type  
16 calls. The operator shall notify the receiver of the call that the  
17 call is coming from a prison inmate, and that it will be recorded and  
18 may be monitored.

19       **(b)** The secretary of corrections may approve one or more calling  
20 systems including collect calls, prepaid calls, pin number calls, debit  
21 card or credit card calls, or other calling systems that also provide  
22 accurate accounting methods and accurate identification of both the  
23 offender making the call and the number called. Any system selected  
24 must be at least as secure as the system it is intended to replace and  
25 provide the department of corrections with the ability to control and  
26 monitor calls and make "operator announcements." In approving one or  
27 more systems, the secretary of corrections shall consider the safety of  
28 the public, the ability to reduce telephone fraud, and the ability of  
29 offender families to select a low-cost option.

30       (3) The department of corrections shall adhere to the following  
31 procedures and restrictions when intercepting, recording, or divulging  
32 any telephone calls from an inmate or resident of a state correctional  
33 facility as provided for by this section. The department shall also  
34 adhere to the following procedures and restrictions when intercepting,  
35 recording, or divulging any monitored nontelephonic conversations in  
36 inmate living units, cells, rooms, dormitories, and common spaces where  
37 inmates may be present:

1 (a) Unless otherwise provided for in this section, after  
2 intercepting or recording any conversation, only the superintendent and  
3 his or her designee shall have access to that recording.

4 (b) The contents of any intercepted and recorded conversation shall  
5 be divulged only as is necessary to safeguard the orderly operation of  
6 the correctional facility, in response to a court order, or in the  
7 prosecution or investigation of any crime.

8 (c) All conversations that are recorded under this section, unless  
9 being used in the ongoing investigation or prosecution of a crime, or  
10 as is necessary to assure the orderly operation of the correctional  
11 facility, shall be destroyed one year after the intercepting and  
12 recording.

13 (4) So as to safeguard the sanctity of the attorney-client  
14 privilege, the department of corrections shall not intercept, record,  
15 or divulge any conversation between an inmate or resident and an  
16 attorney. The department shall develop policies and procedures to  
17 implement this section. The department's policies and procedures  
18 implemented under this section shall also recognize the privileged  
19 nature of confessions made by an offender to a member of the clergy or  
20 a priest in his or her professional character, in the course of  
21 discipline enjoined by the church to which he or she belongs as  
22 provided in RCW 5.60.060(3).

23 (5) The department shall notify in writing all inmates, residents,  
24 and personnel of state correctional facilities that their nontelephonic  
25 conversations may be intercepted, recorded, or divulged in accordance  
26 with the provisions of this section.

27 (6) The department shall notify all visitors to state correctional  
28 facilities who may enter inmate living units, cells, rooms,  
29 dormitories, or common spaces where inmates may be present, that their  
30 conversations may intercepted, recorded, or divulged in accordance with  
31 the provisions of this section. The notice required under this  
32 subsection shall be accomplished through a means no less conspicuous  
33 than a general posting in a location likely to be seen by visitors  
34 entering the facility.

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