
ENGROSSED SUBSTITUTE SENATE BILL 6352

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Stevens, Hargrove, Esser, Schmidt,
Poulsen, Berkey, McAuliffe and Kohl-Welles)

READ FIRST TIME 02/05/04.

1 AN ACT Relating to selection of telephone calling systems for
2 offenders 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 offender 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7 facilities is based on outdated technology that provides neither the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 the offenders' families. The legislature, in budget
10 provisions, has required the secretary of corrections to investigate
11 other systems as offender 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 offender accountability, and lower costs. Therefore,
15 the legislature intends to remove this barrier while retaining the
16 intent of the statute to provide safe, accountable, and affordable
17 telephone 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)) offender or resident of a state correctional facility; or
7 intercepting, recording, or divulging any monitored nontelephonic
8 conversations in ((inmate)) offender living units, cells, rooms,
9 dormitories, and common spaces where ((inmates)) offenders may be
10 present. For the purposes of this section, "state correctional
11 facility" means a facility that is under the control and authority of
12 the department of corrections, and used for the incarceration,
13 treatment, or rehabilitation of convicted felons.

14 (2)(a) All personal calls made by ((inmates)) offenders shall be
15 ((collect calls only)) made using a calling system approved by the
16 secretary of corrections which is at least as secure as the system it
17 replaces. In approving one or more calling systems, the secretary of
18 corrections shall consider the safety of the public, the ability to
19 reduce telephone fraud, and the ability of offender families to select
20 a low-cost option.

21 (b) The calls ((will)) shall be "operator announcement" type calls.
22 The operator shall notify the receiver of the call that the call is
23 coming from a prison ((inmate)) offender, and that it will be recorded
24 and may be monitored.

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

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

37 (b) The contents of any intercepted and recorded conversation shall

1 be divulged only as is necessary to safeguard the orderly operation of
2 the correctional facility, in response to a court order, or in the
3 prosecution or investigation of any crime.

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

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

19 (5) The department shall notify in writing all (~~inmates~~)
20 offenders, residents, and personnel of state correctional facilities
21 that their nontelephonic conversations may be intercepted, recorded, or
22 divulged in accordance with the provisions of this section.

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

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