

Public Policy Position
Proposed Resolution to Redress Excessive State Inmate
Telephone Call Charges

The Criminal Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,344 members. The Criminal Law Section is not the State Bar of Michigan and the position expressed herein is that of the Criminal Law Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Criminal Law Section has a public policy decision-making body with 25 members. On February 16, 2021, the Section adopted its position after a discussion and vote at a scheduled meeting. 17 members voted in favor of the Section's position, 2 members voted against this position, 3 members abstained, 3 members did not vote.

Support

Explanation:

The Criminal Law Section of the State of Michigan adopted a resolution at their February 16, 2021 meeting. Support for the resolution was: YEA: 17, NAY: 2, ABSTAIN: 3. The text of the resolution is attached.

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Proposed Resolution to Redress Excessive State Inmate Telephone Call Charges:

Whereas, a recent article in the Sunday (Detroit) Free Press, February 7, 2021, exposed the widespread (national, states, and local) use of surcharges on inmate telephone calls, above the real cost of telephone calls, at the expense of inmates and their families;

Whereas, the excess charges disproportionately disadvantages poor inmates, often individuals of color, and can impede or prevent inmate connections to families where the charges are not affordable by them;

Whereas, there is a misperception that the telephone service provider or vendor benefits the most from the surcharges;

Whereas, the expense of state prison inmate telephone calls is exasperated to an unreasonable level by the profit the Michigan Department of Corrections (MDOC) makes annually on its contract with the telephone service provider, to the current tune of \$11 million;

Whereas, the revenue MDOC has made pursuant to a contract with a telephone service vendor since first allowed under a boilerplate provision in the MDOC budget, known as Sec. 219, for FY 2010-11 in 2010 PA 188 (ESB 1153) – effectively a tax created by contract;

Therefore, be it resolved, that the Criminal Law Section Council opposes the practice of MDOC negotiating inmate telephone service contracts to produce annual revenue (in lieu of GF/GP money) to fund, as currently worded in 2020 PA 166 (EHB 5396), Art. V, Sec. 219, “prisoner programming, special equipment, and security projects”;

Be it further resolved, that the Criminal Law Section Council recommends that MDOC, the Governor, and State Budget Office renegotiate the current 2018 contract to eliminate the annual collection of revenue for the program and special equipment fund and further limit to the extent legally possible the profit incurred by the current telephone service vendor;

Be it further resolved, that the Criminal Law Section Council recommends that there be no extension of the current 2018 contract without the changes recommended above;

Be it further resolved, that the Criminal Law Section Council recommends that any future contract for state inmate telephone calls exclude revenue unrelated to the direct provision of phone service for inmates;

Be it further resolved, the House and Senate Appropriations Subcommittees having jurisdiction over the budget of the Michigan Department of Corrections revise Sec. 219 in the FY 2021-22 and future budgets as follows:

“Sec. 219. (4) Any contract for prisoner telephone services entered into after the effective date of this section shall include a condition that fee schedules for prisoner telephone calls, ~~including rates and any surcharges other than those necessary to meet program and special equipment costs,~~ be the same as fee schedules for calls placed from outside of correctional facilities.

~~(2) Revenues appropriated and collected for program and special equipment funds shall be considered state restricted revenue. Funding shall be used for prisoner programming, special equipment, and security projects. Unexpended funds remaining at the close of the fiscal year shall not lapse to the general fund but shall be carried forward and be available for appropriation in subsequent fiscal years.~~”, while also striking subsection(3) which is a reporting requirement as to the use of the program and special equipment; and

Be it further resolved, that the Criminal Law Section Council convey this resolution to the Director of MDOC, the Legislative Subcommittees considering the MDOC budget, the Governor, and the State Budget Office.