

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB441

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Boysko

3. Committee: Rehabilitation and Social Services

4. Title: State correctional facilities; fees.

5. Summary: This bill reduces or eliminates certain fees that may be charged to inmates in state correctional facilities including those related to: telephone, video visitation, and messaging services; certain documents provided to inmates upon discharge; and managing inmate trust accounts. The bill caps the amount of markup the Department of Corrections (DOC) may charge for commissary items to 10 percent over the typical market rate for the same items and provides that profits may only be used to support educational, recreational, or pre-release and post-release reentry and transition services.

6. Budget Amendment Necessary: Yes. Item 404.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

8. Fiscal Implications: This bill affects fees and costs that may be charged for several inmate services. In total, DOC estimates that the impact on the services required in this bill total approximately \$15.2 million annually, which would have to be replaced by a corresponding general fund appropriation. The services affected include telephone services (estimated at \$11.4 million annually), commissions received from secure messaging services (estimated at \$89,000 annually), and commissions received from commissary sales (\$3.7 million annually). All affected services are discussed below.

Inmate Telephone Services

Under current law, the Department of Corrections (DOC) is required to offer debit or prepaid telephone systems, in addition to any existing collect calling systems, which allow telephone calls to be placed to the telephone number or numbers on an approved call list. Such telephone systems may be established with the lowest available rates. This bill requires to provide telephone services at no cost to the inmate or to any recipient of a call from an inmate. The bill establishes a minimum ratio of one telephone for every 15 inmates within each housing unit at each correctional facility. This bill prohibits DOC and any correctional facilities from receiving any commission from such telephone systems.

According to DOC, under the current contract for inmate telephone services, the vendor provides all telephone and network equipment and manages all inmate telephone services

including administrative equipment and supplies. The contract requires a ratio of one phone for every 15 inmates; this requirement is currently being exceeded with a ratio of one phone for every ten inmates. The vendor collects fees for telephone calls directly from inmates through deductions from inmate accounts and from individuals calling into facilities through internet and telephone transactions. DOC reports that under the current contract for telephone services, calls are charged at \$0.0409 per minute; this rate has remained constant since 2015. In FY 2021, the total amount collected by the vendor for telephone services was \$11.4 million. DOC does not receive any revenue or commissions related to inmate telephone service.

Under the current contract, DOC is responsible for paying \$250,000 per quarter to cover software licensing for the telephone system. DOC's budget includes \$1.0 million from the general fund each year for this expenditure.

DOC reports that its current contract for telephone services will expire in June 2022 and that an RFP process to replace the contract is planned. Any future fiscal impact would depend on the terms of a new telephone service contract, including the cost for new equipment, the cost charged per call, and the volume of calls placed and received by inmates.

DOC expects that providing telephone services to inmates at no cost would increase the demand for the services. DOC's estimate does not account for any increase in volume that may occur as a result of providing the services at no cost.

State Responsible Inmates in Local Jails

The proposed legislation requires DOC to provide free of charge to "any persons" receiving or initiating telephone calls. According to DOC, there are approximately 7,251 state responsible (SR) offenders in local and regional jails. This fiscal impact statement assumes that the provisions of the bill apply only to SR offenders in state correctional facilities. To the extent the bill includes SR offenders held in local jails, the impact is expected to be higher; however, at this time information related to such potential cost is not available.

Video Visitation and Secure Messaging Services

Current law authorizes the Director of DOC to prescribe reasonable rules regarding electronic visitation systems or electronic messaging systems, including Voice-over-Internet Protocol technology and web-based communication systems, for communication between prisoners and third parties and to collect a fee for the system. This bill requires that the fee charged must not exceed the actual costs of establishing and operating such a system. The bill provides that state correctional facilities that utilize such systems may not exclude any inmate from its use and prohibits state correctional facilities from receiving any commissions from such service.

According to DOC, video visitation service is provided through a partnership with the non-profit organization Assisting Families of Inmates (AFOI). AFOI contracts with a service provider to provide the video visitation service, which is available to inmates housed in all DOC facilities. Video visitation fees are paid by the person calling the inmate at a rate of

\$.40 per minute. The fees collected go directly to the cost of operating the service. AFOI collected \$1.6 million in usage charges during FY 2021 from inmate family members. Because the bill allows fees to be assessed for this service as long as they do not exceed the actual costs of establishing and operating the system, this provision would not have a fiscal impact on agency operations. DOC does not receive any revenue or commissions related to video visitation service.

DOC's budget includes \$250,000 from the general fund each year to expand and subsidize video visitation in state correctional facilities. The Introduced budget (HB30/SB30) includes one-time funding of \$3.0 million from the American Rescue Plan Act (ARPA) to purchase new video visitation equipment, which will help address the increased volume of usage experienced as a result of the COVID-19 pandemic.

Secure messaging services for inmates are provided through a vendor contract. Initiators of the message pay the vendor directly and are charged between \$0.25 to \$0.39 depending on the size and number of attachments included in a message. The vendor collected \$2.9 million in FY 2021 from inmates and individuals to support the inmate messaging service. The bill allows fees to be assessed for this service as long as they do not exceed the actual costs of establishing and operating the system. However, DOC receives a commission from the vendor, which is used to support post-secondary education programs for inmates. DOC reports that commissions received in FY 2021 totaled \$89,000. If this commission is prohibited, DOC would need to replace this funding with another source to support post-secondary education programs.

Establishment of stores in state correctional facilities

Current law authorizes the establishment and operation of stores or commissaries in state correctional facilities to deal in such articles as the Director of DOC deems proper. The profits from the operation of such stores may be used for educational, recreational, pre-release and post-release reentry and transition services, or other purposes beneficial to the inmate population as may be prescribed by the Director. This bill requires that the cost of items or services sold by such stores or commissaries, including the sale or rental of electronic devices or media, must not exceed 10 percent of the cost of the typical market rate for such goods and services in major retail stores that are not affiliated with any correctional facility. The bill prohibits DOC from receiving any commissions or markups from the products or services sold and restricts the use of the profits from commissary sales to supporting educational, recreational, or pre-release and post-release reentry and transition services.

DOC reports that commissary operations are contracted with a vendor that provides all management, staffing, and materials for operating on-site store, on-site delivery, off-site bag delivery or a combination of these services to DOC facilities statewide. The bill allows DOC to use profits from commissary sales in particular ways, but prohibits DOC from collecting commission on such sales. The bill does not clearly define the difference between these terms. However, DOC reports that it receives a commission that equals 9.5 percent of commissary sales, which is used exclusively to support inmate welfare programs such as the

law library, chaplain services, cable TV, and recreational supplies. DOC reports that commissions received from FY 2021 sales totaled \$3.7 million. DOC would need to replace this funding with another source to support inmate activities.

Discharge Documents

Current law requires DOC to provide each prisoner with the following documents upon discharge: (i) verification of the prisoner's work history while in custody; (ii) certification of all educational and treatment programs completed by the prisoner while in custody; and (iii) copy of his medical records, so long as such prisoner requests a copy of his records at least 60 days prior to the date upon which the prisoner's term would expire. This bill requires DOC to provide the documents at no cost to the prisoner, requires that the copy of medical records must be complete and comprehensive, and removes the stipulation that a prisoner request a copy of his records within 60 days of the expiration of his term.

According to DOC, current practice is to provide a copy of records, including medical records, at no cost as long the records are requested at least 60 days prior to the inmate's release date; this is not automatically part of the discharge process. Records are released within 30 days of discharge. DOC reports that providing copies of records to all offenders upon discharge would have minimal fiscal impact.

Inmate Trust Accounts

Current law requires DOC to establish a personal trust account for each inmate and, after an inmate's personal trust account reaches \$1,000, unless directed by the inmate otherwise, DOC is required to deposit any funds into another account held for the inmate. This bill limits fees charged for the receipt of funds by an inmate to three percent of the amount received and prohibits DOC from receiving any commissions from such fees.

According to DOC, fees charged for sending money to an inmate are paid by the person transferring the funds. There are several options and fee structures for this service including mailing money orders to a lockbox (no charge for this service), sending cash from a retail walk-in location (fee of \$4.00 up to \$7.95 depending on amount sent), and sending money via credit or debit card (fee of \$2.95 up to \$10.95 depending on amount sent and whether transfer is via Internet or over the phone). Inmates receiving funds are not charged a fee and DOC does not receive any commissions from this service.

Current law also requires that funds in an inmate's personal trust account must be paid to the inmate upon parole or final discharge. This bill requires that the inmate be given an option to receive such funds by a check, an electronic transfer, or a debit or other account card. If an inmate receives funds through a debit or other account card by DOC or a vendor contracted with DOC, the inmate cannot not be charged any fee to check account balances, transfer funds, or to close or maintain the account. The bill prohibits DOC from collecting any commission for the payment of an inmate's personal trust account funds upon parole or discharge.

According to DOC, funds in an inmate's personal trust account are given to the inmates in the form of a debit card upon parole or final discharge through a service provider. Debit card maintenance fees are charged beginning 15 calendar days after the card is validated. The inmate can check account balances, transfer funds, or close the account within the 15-day period without cost. If the inmate chooses to maintain funds on the card after 15 days, they are assessed a monthly fee of \$ 3.95 which is retained by the service provider. DOC does not receive any commissions from this service. An estimate for providing inmates with other options for receiving their personal trust account balances is not available at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections

10. Technical Amendment Necessary: No

11. Other Comments: None