

Testimony of the Civil Justice Clinic, Quinnipiac University School of Law

In Support of HB 6714, SB 880, and SB 1099

Judiciary Committee

March 25, 2019

Dear Members of the Judiciary Committee:

The Civil Justice Clinic at Quinnipiac University School of Law submits this testimony in support of **HB 6714**, An Act Concerning the Cost of Telecommunication Services in Correctional Facilities; **SB 880**, An Act Increasing Fairness and Transparency in the Criminal Justice System; and **SB 1099**, An Act Concerning Discrimination Based on a Person's Criminal Record. Notably, all these bills would bring about reforms that were recommended by the Criminal Justice Policy Committee, a committee of experts and criminal justice stakeholders that made recommendations to Governor Lamont and his transition team regarding criminal justice policy.¹

I. HB 6714: ELIMINATING THE EXORBITANT COST OF PHONE CALLS FOR PRISONERS

Research demonstrates that individuals leaving prison are more likely to succeed if they have been able to stay connected with family and children while incarcerated.² Connecticut makes this more difficult by imposing some of the nation's highest prison phone costs. HB 6714 would eliminate the cost of phone calls for prisoners and help encourage prisoner rehabilitation and reentry. The Criminal Justice Policy Committee recommended that Connecticut make reforms in this area, and the Collateral Consequences Committee of the Connecticut Sentencing Commission has also recently studied this issue.

A. Costs in Connecticut

In FY2018, Connecticut received more than \$7.7 million in revenue from phone calls made by prisoners incarcerated in the state's correctional institutions. The state revenue results from a 68% "commission rate" that the state takes from the amount charged for the calls by Securus Technologies, Inc., a private company that Connecticut has contracted with to provide prisoners with phone calls access.

Connecticut entered its contract with Securus in 2012 and the contract continues through March 1, 2021.³ The contract outlines rates for prisoner phone calls and provides one set of rates

¹ The Criminal Justice Policy Committee's recommendations and working group memos are available here:

<https://portal.ct.gov/Office-of-the-Governor/Working-Groups/Transition-Policy-Working-Group>

² See, e.g., A Report of the Recidivism Reduction Committee of the Connecticut Sentencing Commission, *Evidence-based Reentry Initiatives Devoted to Strengthening Positive Social Relationships* (Sept. 2012),

https://www.ct.gov/ctsc/lib/ctsc/reentry_doc_current_draft_9_15_12_SRLH.pdf.

³ Contract, https://biznet.ct.gov/SCP_Documents/Results/10774/Contract%20Master%20Agreement%203.1.12.pdf.

Links to the original contract and its supplements are available here:

https://biznet.ct.gov/SCP_Search/ContractDetail.aspx?ID=10774. The contract was to continue for seven years,

if the state collects a commission and one set of rates should the state forgo a commission. Under the contract, the state reserves the right to negotiate the rates on an annual basis. The rates for local, in-state, and out-of-state long distance calls are as follows:

| | Collect Calls | Debit/Pre-Paid Collect |
|--------------------------------|----------------------|-------------------------------|
| Rate with Commission | \$0.3245 | \$0.2433 |
| Rate without Commission | \$0.0753 | \$0.0564 |

By statute, \$350,000 of the revenue from the phone calls is transferred by DAS to the Department of Correction for “Other Current Expenses, for expanding inmate educational services and reentry program initiatives.”⁴ DAS may use remaining funds to “administer the criminal justice information system.” Funds still remaining are then transferred to the Judicial Department “for staffing and services necessary for the state-wide expansion of the probation transition program and the technical violation units.”⁵

A separate contract between DOC and Securus requires Securus to install kiosks in the lobbies of all state correctional facilities so that visitors can deposit funds into a prisoner’s account. The agreement permits Securus to charge a service fee for each kiosk transaction. The service fee schedule is as follows.

| Amount of Deposit | Discounted Cash Fee | Transaction Fee |
|--------------------------|----------------------------|------------------------|
| \$0.00 - \$20.00 | \$3.95 | \$4.95 |
| \$20.01 - \$100.00 | \$5.95 | \$7.95 |
| \$100.01 - \$200.00 | \$6.95 | \$9.95 |
| \$200.01 - \$300.00 | \$7.95 | \$10.95 |

B. Federal Communications Commission

Under the Obama administration, the Federal Communications Commission (FCC) issued a regulation to cap the price of both interstate and intrastate prisoner phone calls.⁶ These rates were to take effect in 2017.⁷ However, the U.S. Court of Appeals for the D.C. Circuit stayed and then invalidated the FCC regulation of intrastate prisoner phone calls.⁸ This decision followed the Trump administration’s reconfiguration of the FCC, and the FCC’s subsequent unwillingness to defend the regulation of intrastate calls in court.⁹ It appears that the FCC

unless extended. Under the contract, the state has the sole discretion in executing three one-year options. On June 26, 2018, the state executed two of the one-year options. Contract Award Supplement #1, https://biznet.ct.gov/SCP_Documents/Results/10774/Securus%2010ITZ0119%20%20Supplement%201%20Extension.pdf.

⁴ Conn. Gen. Stat. §18-81x.

⁵ Conn. Gen. Stat. § 54-105a.

⁶ Rates for Interstate Inmate Calling Services (“Order”), 30 FCC Rcd. 12763, 12775–76, 12838–62 (Nov. 5, 2015), 80 Fed. Reg. 79136-01 (Dec. 18, 2015).

⁷ Consumer and Government Affairs Bureau, FCC, Consumer Guide: Inmate Telephone Service, Nov. 8, 2016.

⁸ *Global Tel Link v. FCC*, 866 F.3d 397 (D.C. Cir. 2017).

⁹ Cecilia Kang, Court Strikes Obama-Era Rule Capping Cost of Phone Calls From Prison, New York Times, <https://www.nytimes.com/2017/06/13/technology/fcc-prison-phone-calls-regulations.html>; *see also*

regulations governing interstate calls are still in effect,¹⁰ and that the interstate rate contained in Connecticut's contract is in excess of the rates permitted by the FCC. (The FCC has set a cap of 25 cents a minute for collect calls and 21 cents a minute for debit-prepaid calls). However, we are investigating this further.

C. Prisoner Phone Calls Nationwide

The organization Prison Phone Justice maintains a website (prisonphonejustice.org) that ranks Connecticut 49th out of 51 jurisdictions for its high pricing of, and commission made, on inmate phone calls.¹¹ According to the website, only two states—Kentucky and Maine—charge more for a 15-minute call.¹² And only six states take a higher percent of revenue from calls as a commission.¹³ Using data from Prison Phone Justice, the following chart compares Connecticut's prisoner phone call rates to other state in the region

Inmate Intrastate Phone Call Rates Compared to Region

| | Collect | Prepaid | Debit |
|---------------|------------|------------|------------|
| Connecticut | .3245/min | .2433/min | N/A |
| New York* | .043/min | .043/min | .043/min |
| Rhode Island* | .047/min | .047/min | .047/min |
| Massachusetts | .01/min | .01/min | .01/min |
| New Hampshire | .013/min | .013/min | .013/min |
| New Jersey* | .04384/min | .04384/min | .04384/min |

* States that do not receive commissions.

Nationwide, there has been significant recent concern about the price of prisoner phone calls. Within the past year, Texas and New York City have reduced their rates. States including California, Michigan, New Jersey, New Mexico, New York, Rhode Island, and South Carolina have passed legislation to cap the cost of inmate phone calls or eliminate commissions. Other states including Iowa, Missouri, Nebraska, and Ohio have acted through administrative action to limit the cost of prisoner calls. Actions taken by other states are described in detail in testimony submitted to this Committee by Robert J. Anderson, a student at Quinnipiac University School of Law.

II. SB 880: AN ACT INCREASING FAIRNESS AND TRANSPARENCY IN THE CRIMINAL JUSTICE SYSTEM

A. Data Collection

A major recommendation of the Criminal Justice Policy Committee was to increase the transparency of the criminal justice system in Connecticut by passing legislation requiring broad

¹⁰ Rates for Interstate Inmate Calling Services, 31 FCC Rcd. 9300 (2016).

¹¹ Prison Phone Justice, www.prisonphonejustice.org. This information on the site has not been independently verified by the Clinic's research.

¹² *Id.*

¹³ The six states are Arizona, Maine, Arkansas, Illinois, Louisiana, and Kansas. *Id.*

collection of data relating to the state’s prosecutorial work. Quinnipiac’s Civil Justice Clinic supports the transparency concepts contained in SB 880 and appreciates the efforts of the Judiciary Committee and Governor regarding this legislation. We hope that the final version of this bill will also require collection of data relating to bail/pretrial release recommendations and determinations. In addition, we hope the bill will require that data be collected regarding the mandatory and discretionary transfer of juvenile cases to adult court. We recognize the confidentiality concerns that exist with respect to juvenile cases but believe that general data can be reported while safeguarding confidentiality. These two issues—bail and the treatment of juveniles as adults—are areas of concern to many people in our state and have been the focus of recent reform efforts in numerous states nationwide. Good data will help us make the most effective and evidence-driven policies on these issues in Connecticut.

B. Appointed Counsel at Parole Revocation Hearings

SB 880 provides that the Chief Public Defender shall, within available appropriations, establish a pilot program to provide representation to individuals at parole revocation hearings. The bill also requires collection of data regarding, *inter alia*, the outcomes of preliminary hearings and final parole revocation hearings, and the number of people remanded to custody for criminal and technical violations. The remand of someone on parole to prison—even for a short period of time—can have a devastating impact on a person’s efforts to reintegrate into society. Incarceration for only a few days can result in the loss of a job and can lead to loss of housing and the inability to complete education or treatment programs. The Board of Pardons and Paroles (“BOPP”) has recently undertaken important steps to reform the parole revocation system. However, more work can be done to prevent unnecessary incarceration. Providing counsel at parole revocation hearings would play a critical role in ensuring that the BOPP has before it as much information as possible to inform its decision regarding whether a parole violation has occurred and whether reincarceration is a necessary sanction.

III. SB 1099, AN ACT CONCERNING DISCRIMINATION BASED ON A PERSON’S CRIMINAL RECORD

The Criminal Justice Policy Committee recommended amending Connecticut’s anti-discrimination laws to include people with a criminal record. Quinnipiac’s Civil Justice Clinic supports the anti-discrimination concepts contained in SB 1099 (which is virtually HB 6921, a bill that received a joint favorable report from the Labor and Public Employees Committee). Connecticut residents with criminal records face numerous hurdles due to their criminal records as they search for jobs and housing, further their education, apply for insurance and credit, and attempt to participate in public programs and services and economic development programs. Anti-discrimination protections will help those with records reintegrate into society and support themselves and their families.

Respectfully Submitted,
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By: Sarah French Russell, Professor of Law