

## RESOLUTION 09-13-06

### DIGEST

#### County Jails: Prohibition on Excess Telephone Charges

Amends Penal Code section 4025 to require competitive bidding for county jail payphone service.

### RESOLUTIONS COMMITTEE RECOMMENDATIONS

APPROVE IN PRINCIPLE

#### History:

No similar resolutions found.

#### Reasons:

This resolution amends Penal Code section 4025 to require competitive bidding for county jail payphone service. This resolution should be approved in principle because it would permit low cost phone service for inmates without achieving profits for the county from those to whom inmates place collect calls.

Current law permits each county to enter into a contract for jail payphone services which allows commissions to be paid to each county's sheriffs department. The money is used to offset jail operating expenses. In practice, when an inmate makes a call to the outside, the cost of the call is considerably more than the average cost of making a collect call from a regular payphone. The result of this is that many inmates, including many who may not have yet been convicted, do not make calls due to the cost. Although the present contracts provide additional revenue to the county, they result in prohibitive costs to those to whom inmates are placing calls.

This resolution would require each county to enter into a contract for payphone services that is consistent with normal payphone services. This would still allow counties to maintain public safety by monitoring calls, while permitting inmates to communicate with their families at a lower cost. This resolution would permit inmates to maintain consistent communication with the outside and may lead to less tension in the county jails. A county should not be generating revenue at the cost of the jail population or the public which communicates with that population.

### TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Penal Code section 4025, to read as follows:

- 1 § 4025
- 2 (a) The sheriff of each county may establish, maintain and operate a store in
- 3 connection with the county jail and for this purpose may purchase confectionery, tobacco
- 4 and tobacco users' supplies, postage and writing materials, and toilet articles and supplies
- 5 and sell these goods, articles, and supplies for cash to inmates in the jail.
- 6 (b) The sale prices of the articles offered for sale at the store shall be fixed by the
- 7 sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of
- 8 the county.

9 (c) There shall also be deposited in the inmate welfare fund 10 percent of all gross  
10 sales of inmate hobbycraft.

11 (d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or  
12 commission received from a telephone company or pay telephone provider when the money,  
13 refund, rebate, or commission is attributable to the use of pay telephones which are  
14 primarily used by inmates while incarcerated-, provided, however, that no county may enter  
15 into a contract for pay telephone services that is intended to generate revenue for the county  
16 or its inmate welfare fund. Every county must select inmate telecommunications providers  
17 by means of a competitive bidding process designed to achieve the lowest possible  
18 telecommunications cost for inmates consistent with public safety.

19 (e) The money and property deposited in the inmate welfare fund shall be expended  
20 by the sheriff primarily for the benefit, education, and welfare of the inmates confined  
21 within the jail. Any funds that are not needed for the welfare of the inmates may be  
22 expended for the maintenance of county jail facilities. Maintenance of county jail facilities  
23 may include, but is not limited to, the salary and benefits of personnel used in the programs  
24 to benefit the inmates, including, but not limited to, education, drug and alcohol treatment,  
25 welfare, library, accounting, and other programs deemed appropriate by the sheriff. Inmate  
26 welfare funds shall not be used to pay required county expenses of confining inmates in a  
27 local detention system, such as meals, clothing, housing, or medical services or expenses,  
28 except that inmate welfare funds may be used to augment those required county expenses as  
29 determined by the sheriff to be in the best interests of inmates. An itemized report of these  
30 expenditures shall be submitted annually to the board of supervisors.

31 (f) The operation of a store within any other county adult detention facility which is  
32 not under the jurisdiction of the sheriff shall be governed by the provisions of this section,  
33 except that the board of supervisors shall designate the proper county official to exercise the  
34 duties otherwise allocated in this section to the sheriff.

35 (g) The operation of a store within any city adult detention facility shall be governed  
36 by the provisions of this section, except that city officials shall assume the respective duties  
37 otherwise outlined in this section for county officials.

38 (h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or  
39 Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of  
40 the Government Code, deposit, invest, or reinvest any part of the inmate welfare fund, in  
41 excess of that which the treasurer deems necessary for immediate use. The interest or  
42 increment accruing on these funds shall be deposited in the inmate welfare fund.

43 (i) The sheriff may expend money from the inmate welfare fund to provide indigent  
44 inmates, prior to release from the county jail or any other adult detention facility under the  
45 jurisdiction of the sheriff, with essential clothing and transportation expenses within the  
46 county or, at the discretion of the sheriff, transportation to the inmate's county of residence,  
47 if the county is within the state or within 500 miles from the county of incarceration. This  
48 subdivision does not authorize expenditure of money from the inmate welfare fund for the  
49 transfer of any inmate to the custody of any other law enforcement official or jurisdiction.

(Proposed new language underlined, language to be deleted stricken.)

PROPOSER: Los Angeles County Bar Association

STATEMENT OF REASONS

Existing Law: Allows California counties to enter into telephone service agreements for county jail payphone service with commissions paid to the county Sheriff.

This Resolution: Would prohibit counties from entering into such contracts for the purpose of generating revenue, and would require that contracts be awarded through a competitive bidding process at the lowest possible cost that is consistent with public safety needs.

The Problem: In order to use the telephone in most county jails in California, inmates are required to make collect calls using telephone providers under contract to the county. Instead of entering into telephone service contracts that provide the lowest possible cost to inmates in light of the special services required (monitoring, etc.), counties almost universally enter into contracts that provide substantial kickbacks (or "commissions") to the Sheriff's inmate welfare fund. In many counties, including Los Angeles, those funds are used to offset ordinary jail operating expenses. As a result, those often least able to pay – the children, spouses, parents, and friends of inmates – are left holding huge bills for the most basic communication. An Associated Press analysis concluded that collect calls made from California jails cost an average of seven times as much as the same collect call made from a regular payphone. The problem has become so pervasive many county jail inmates – often not even convicted of a crime yet – are unable to maintain contact with their families due to the cost. This proposal would require counties to forego commissions and to select telephone vendors who provide the services required for public safety at the lowest possible cost to those called.

#### IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

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