

Calendar No. 657

117TH CONGRESS
2D SESSION

S. 1541

To amend the Communications Act of 1934 to require the Federal Communications Commission to ensure just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2021

Ms. DUCKWORTH (for herself, Mr. PORTMAN, Mr. SCHATZ, Mr. BOOKER, Mr. KING, Mr. MARKEY, Mrs. GILLIBRAND, Ms. WARREN, Mr. CASEY, Mr. BLUMENTHAL, Mr. WYDEN, Ms. KLOBUCHAR, Mr. LUJÁN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 15, 2022

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend the Communications Act of 1934 to require the Federal Communications Commission to ensure just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Martha Wright-Reed
3 Just and Reasonable Communications Act of 2021”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Prison, jails, and detention centers in the
7 United States have unique telecommunications needs
8 due to safety and security concerns.

9 (2) Unjust and unreasonable charges negatively
10 impact the safety and security of communities in the
11 United States by exacerbating recidivism by dam-
12 aging relationships between incarcerated people and
13 their support systems.

14 (3) It is the policy of the United States to en-
15 sure that all people in the United States, including
16 anyone who pays for communications with incarcer-
17 ated people via telephone and advanced communica-
18 tions, are afforded just and reasonable charges for
19 all communications services.

20 (4) The current correctional facilities commu-
21 nications market suffers from market failure. Among
22 other issues, consumers cannot choose among com-
23 peting providers, which produces locational monopo-
24 lies and monopoly profits at the expense of rate-pay-
25 ers.

1 (5) Charges for communicating with individuals
2 detained in prisons, jails, and detention centers have
3 been shown to be unjust and unreasonable as a re-
4 sult of industry practices and lack of competition.

5 (6) Unjust and unreasonable charges extend to
6 telephone and advanced communications services
7 and to both intrastate and interstate communica-
8 tions.

9 (7) Mrs. Martha Wright-Reed of Washington,
10 DC, led a campaign for just calling rates for incar-
11 cerated people for over a decade. Mrs. Wright-Reed
12 was the lead plaintiff in *Wright v. Corrections Cor-
13 poration of America*, CA No. 00-293 (GK) (D.D.C.
14 2001), which ultimately led to the Wright Petition
15 at the Federal Communications Commission, CC
16 Docket No. 96-128 (Nov. 3, 2003). Mrs. Wright-
17 Reed became involved, when, as a grandmother, she
18 was forced to choose between purchasing medication
19 and communicating with her incarcerated grandson.
20 Mrs. Wright-Reed passed away on January 18, 2015
21 before fully realizing her dream of just communica-
22 tions rates for all people.

23 (8) After the Federal Communications Commis-
24 sion granted the petition Wright Petition described
25 in paragraph (7), the United States Court of Ap-

1 peals for the District of Columbia Circuit reversed
 2 the Federal Communications Commission by inter-
 3 preting section 276 of the Communications Act of
 4 1934 (47 U.S.C. 276) in the case of Global
 5 Tel*Link v. Federal Communications Commission,
 6 866 F.3d 397 (D.C. Cir. 2017), in part by con-
 7 stricting the meaning of the word “fair” and lim-
 8 iting the means by which the Federal Communica-
 9 tions Commission can calculate fair, just, and rea-
 10 sonable charges.

11 **SEC. 3. TECHNICAL AMENDMENTS.**

12 (a) IN GENERAL.—Section 276 of the Communica-
 13 tions Act of 1934 (47 U.S.C. 276) is amended—

14 (1) in subsection (b)(1)(A)—

15 (A) by striking “per call”;

16 (B) by inserting “, and all charges are just
 17 and reasonable,” after “fairly compensated”;

18 (C) by striking “each and every”; and

19 (D) by striking “call using” and inserting
 20 “communications using”; and

21 (2) in subsection (d), by inserting “and ad-
 22 vanced communications services” after “inmate tele-
 23 phone service”.

1 (b) DEFINITION OF ADVANCED COMMUNICATIONS
2 SERVICES.—Section 3(1) of the Communications Act of
3 1934 (47 U.S.C. 153(1)) is amended—

4 (1) in subparagraph (C), by striking “and” at
5 the end;

6 (2) in subparagraph (D), by striking the period
7 at the end and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(E) any audio or video communications
10 service provided at a correctional institution, re-
11 gardless of technology used.”.

12 (c) APPLICATION OF THE ACT.—Section 2(b) of the
13 Communications Act of 1934 (47 U.S.C. 152(b)) is
14 amended by inserting “section 276,” after “sections 223
15 through 227, inclusive,”.

16 **SEC. 4. IMPLEMENTATION.**

17 (a) RULEMAKING.—Not later than 18 months after
18 the date of enactment of this Act, the Federal Commu-
19 nications Commission shall promulgate any regulations
20 necessary to implement this Act and the amendments
21 made by this Act.

22 (b) USE OF DATA.—In implementing this Act and
23 the amendments made by this Act, including by promul-
24 gating regulations under subsection (a) and determining
25 just and reasonable rates, the Federal Communications

1 Commission may use industry average costs and collect
 2 and analyze such data as the Commission determines nec-
 3 essary.

4 **SECTION 1. SHORT TITLE.**

5 *This Act may be cited as the “Martha Wright-Reed*
 6 *Just and Reasonable Communications Act of 2022”.*

7 **SEC. 2. TECHNICAL AMENDMENTS.**

8 (a) *IN GENERAL.*—*Section 276 of the Communications*
 9 *Act of 1934 (47 U.S.C. 276) is amended—*

10 (1) *in subsection (b)(1)(A)—*

11 (A) *by striking “per call”;*

12 (B) *by inserting “, and all rates and*
 13 *charges are just and reasonable,” after “fairly*
 14 *compensated”;*

15 (C) *by striking “each and every”;*

16 (D) *by striking “call using” and inserting*
 17 *“communications using”; and*

18 (E) *by inserting “or other calling device”*
 19 *after “payphone”; and*

20 (2) *in subsection (d), by inserting “and ad-*
 21 *vanced communications services described in subpara-*
 22 *graphs (A), (B), (D), and (E) of section 3(1)” after*
 23 *“inmate telephone service”.*

1 (b) *DEFINITION OF ADVANCED COMMUNICATIONS*
 2 *SERVICES.*—Section 3(1) of the Communications Act of
 3 1934 (47 U.S.C. 153(1)) is amended—

4 (1) in subparagraph (C), by striking “and” at
 5 the end;

6 (2) in subparagraph (D), by striking the period
 7 at the end and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(E) any audio or video communications
 10 service used by inmates for the purpose of com-
 11 municating with individuals outside the correc-
 12 tional institution where the inmate is held, re-
 13 gardless of technology used.”.

14 (c) *APPLICATION OF THE ACT.*—Section 2(b) of the
 15 Communications Act of 1934 (47 U.S.C. 152(b)) is amend-
 16 ed by inserting “section 276,” after “sections 223 through
 17 227, inclusive,”.

18 **SEC. 3. IMPLEMENTATION.**

19 (a) *RULEMAKING.*—Not earlier than 18 months and
 20 not later than 24 months after the date of enactment of this
 21 Act, the Federal Communications Commission shall pro-
 22 mulgate any regulations necessary to implement this Act
 23 and the amendments made by this Act.

24 (b) *USE OF DATA.*—In implementing this Act and the
 25 amendments made by this Act, including by promulgating

1 *regulations under subsection (a) and determining just and*
2 *reasonable rates, the Federal Communications Commis-*
3 *sion—*

4 *(1) may use industry-wide average costs of tele-*
5 *phone service and advanced communications services*
6 *and the average costs of service of a communications*
7 *service provider; and*

8 *(2) shall consider costs associated with any safe-*
9 *ty and security measures necessary to provide a serv-*
10 *ice described in paragraph (1) and differences in the*
11 *costs described in paragraph (1) by small, medium,*
12 *or large facilities or other characteristics.*

13 **SEC. 4. EFFECT ON OTHER LAWS.**

14 *Nothing in this Act shall be construed to modify or*
15 *affect any Federal, State, or local law to require telephone*
16 *service or advanced communications services at a State or*
17 *local prison, jail, or detention facility or prohibit the imple-*
18 *mentation of any safety and security measures related to*
19 *such services at such facilities.*

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