

House Bill 2212

Sponsored by Representative WILDE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits Department of Corrections from imposing certain limitations on calls between attorneys and attorney's in-custody clients. Requires department to report to Legislative Assembly and Governor each time department fails to schedule time for call to occur within designated time frame. Requires department to compile statistics and submit annual report concerning calls to interim committees related to judiciary.

Directs Governor to consider department's compliance with requirements and prohibitions concerning calls when determining whether to remove Director of Department of Corrections.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to attorney-client communications for incarcerated individuals; creating new provisions;
3 amending ORS 423.075; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. (1) As used in this section:

5 (a) "Client" has the meaning given that term in ORS 40.225.

6 (b) "Inmate telephone services" means the telephone service systems within a
7 correctional facility that adults in custody may use to make telephone calls.

8 (c) "Legal calls" are telephone calls between an attorney and the attorney's clients who
9 are adults in custody of a correctional facility of the Department of Corrections.

10 (2) The Department of Corrections may not restrict legal calls of adults in custody by:

11 (a) Limiting the duration of calls between an attorney and the in-custody client.

12 (b) Imposing a disciplinary sanction that limits or denies access to inmate telephone
13 services.

14 (c) Requiring an attorney to demonstrate, by documentation or otherwise, that an in-
15 custody client has an active or pending case with an imminent court deadline prior to
16 scheduling a time in which the attorney and the in-custody client may engage in a legal call.

17 (d) Monitoring or inquiring as to the substance of a legal call without a search warrant.

18 (3) If an attorney makes a request to schedule a legal call with an adult in custody of a
19 department correctional facility, the correctional facility shall schedule the call as soon as
20 practicable but not more than three days after the date of the attorney's request, unless so
21 requested by the attorney.

22 (4) The department shall keep a record of each instance of a correctional facility's failure
23 to schedule a legal call within the time frame set forth under subsection (3) of this section.
24 Within three business days after recording the instance, the department shall submit a re-
25 port to the Legislative Assembly and to the Governor specifying the reasons for the failure
26 to schedule the legal call within the requisite time frame.

27 (5) The department shall track and compile statistics relating to the number of requests
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NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 for legal calls made by attorneys and shall submit an annual report that includes the records
 2 described in subsection (4) of this section, in the manner provided in ORS 192.245, to the in-
 3 terim committees of the Legislative Assembly relating to the judiciary no later than Sep-
 4 tember 15 each year.

5 (6) The department may adopt rules necessary to implement and administer the re-
 6 quirements under this section.

7 **SECTION 2.** ORS 423.075 is amended to read:

8 423.075. (1) The Department of Corrections shall be under the supervision and control of a di-
 9 rector who is responsible for providing for programs for the delivery to the public of the services
 10 assigned to the department, and for undertaking long-range planning necessary for the effective and
 11 efficient delivery of these services.

12 (2)(a) The Governor shall appoint the director for a term of four years, but the director may be
 13 removed at any time during such term at the pleasure of the Governor. The appointment of the di-
 14 rector is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

15 (b) The Governor shall consider the department's failure to comply with the require-
 16 ments and prohibitions set forth in section 1 of this 2021 Act concerning legal calls, as de-
 17 fined in section 1 of this 2021 Act, for purposes of evaluating the director's performance or
 18 determining whether to remove the director during the director's term.

19 (3) The director shall receive such salary as may be provided by law or, if not so provided, as
 20 may be fixed by the Governor, and shall be reimbursed for all expenses actually and necessarily
 21 incurred by the director in the performance of official duties.

22 (4) The director may appoint a deputy director, whose appointment is subject to approval by the
 23 Governor and who shall serve at the pleasure of the director. The deputy director shall have full
 24 authority to act for the director, subject to directions of the director. The appointment of the deputy
 25 director shall be by written order, filed with the Secretary of State.

26 (5) The Director of the Department of Corrections shall:

27 (a) For purposes of administration and control, and with the approval of the Governor, organize
 28 and reorganize the department in whatever manner the director deems necessary to conduct the
 29 work of the department.

30 (b) Appoint all subordinate superintendents, officers and employees, whether classified or un-
 31 classified, of the department, prescribe their duties and fix their compensation, subject to applicable
 32 provisions of the State Personnel Relations Law.

33 (c) Delegate to departmental employees such responsibilities and authority as the director de-
 34 termines to be necessary.

35 (d) Provide for the safety of all prisoners in the custody of the department and may adopt rules
 36 for the government and administration of the department.

37 **SECTION 3.** This 2021 Act takes effect on the 91st day after the date on which the 2021
 38 regular session of the Eighty-first Legislative Assembly adjourns sine die.