

114TH CONGRESS  
1ST SESSION

# H. R. 3638

To amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone and video service rates, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2015

Mr. RUSH (for himself, Ms. NORTON, Mr. BUTTERFIELD, and Mr. RANGEL) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone and video service rates, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Telephone Con-  
5 nection Protection Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1           (1) It is the policy of the United States to en-  
2           sure that all Americans are afforded just and rea-  
3           sonable communications services, including those  
4           families that pay rates for inmate telephone and  
5           video service.

6           (2) Telephone and video calls are the primary  
7           methods by which individuals correspond and main-  
8           tain contact with family members who are incarcer-  
9           ated in correctional institutions.

10          (3) Except for emergency purposes, family  
11          members are not allowed to call people incarcerated  
12          in correctional institutions, and incarcerated persons  
13          are typically allowed to call family members and  
14          other pre-approved individuals only through facilities  
15          physically located on the premises of correctional in-  
16          stitutions.

17          (4) Inmate telephone and video service in cor-  
18          rectional institutions often is limited to collect call-  
19          ing.

20          (5) Regardless of whether the prisoners' calls  
21          are placed collect or through a debit account, the  
22          prisoners' family members typically pay for the calls,  
23          either through their telephone bills, in the case of  
24          collect calls received from prisoners, or by making  
25          deposits directly into prisoners' debit accounts.

1           (6) It is clear from various studies that main-  
2           taining frequent and meaningful communications be-  
3           tween people who are incarcerated and family mem-  
4           bers is key to the successful social reintegration of  
5           formerly incarcerated individuals. Such contact re-  
6           duces recidivism and facilitates rehabilitation, which  
7           in turn reduces crime and the future costs of impris-  
8           onment.

9           (7) Frequent communication between incarcer-  
10          ated persons and family members is burdened, and  
11          in some cases, prevented, by excessive inmate tele-  
12          phone and video service rates. Excessive inmate tele-  
13          phone and video service rates thus weaken the fam-  
14          ily and community ties that are necessary for suc-  
15          cessful reentry into society by persons who were for-  
16          merly incarcerated and the reduction in crime result-  
17          ing from successful reentry.

18          (8) Innocent citizens are paying excessive tele-  
19          phone and video service charges simply due to hav-  
20          ing a family member or loved one who is incarcer-  
21          ated.

22          (9) The rates for calls from correctional institu-  
23          tions are some of the highest rates in the United  
24          States, with some per-minute charges reaching \$1  
25          and service or connection charges of \$3.00 per call.

1           (10) Information compiled by the Congress and  
2 the Federal Communications Commission shows that  
3 the high rates are due in part to the lack of competi-  
4 tion between companies that provide long distance  
5 inmate telephone and video service to correctional in-  
6 stitutions.

7           (11) There are no competitive forces providing  
8 incentives for those carriers to lower prices or oper-  
9 ate efficiently because, unlike the mass market, only  
10 one carrier is typically permitted to provide long dis-  
11 tance inmate telephone and video service within each  
12 correctional institution.

13           (12) High calling rates also are due in part to  
14 commissions that carriers pay to correctional institu-  
15 tion administrators for the exclusive right to provide  
16 long distance inmate telephone and video service in  
17 a correctional facility. In some cases, such commis-  
18 sions can account for as much as 60 percent of the  
19 total revenues received from the use of prison  
20 payphones.

21           (13) The collection of such commissions by cor-  
22 rectional institution administrators and State de-  
23 partments of correction based upon interstate tele-  
24 communications revenues is a burden on interstate  
25 commerce.

1           (14) Due to the lack of competition for tele-  
2           phone and video services within correctional institu-  
3           tions, families of people in prison, many of whom  
4           have low incomes, cannot choose the long distance  
5           carrier with the lowest calling rates and must pay  
6           the excessive rates charged by the carrier having the  
7           exclusive right to provide long distance service to the  
8           correctional institution from which the call origi-  
9           nates.

10           (15) The Commission has the expertise and au-  
11           thority to regulate inmate telephone and video serv-  
12           ice. Because parties to Commission rulemaking pro-  
13           ceedings have raised issues regarding its authority to  
14           implement meaningful relief for excessive inmate  
15           telephone and video service rates, Congress finds it  
16           necessary and appropriate to reaffirm that the Com-  
17           mission has the authority to implement the types of  
18           relief set forth in this Act.

19 **SEC. 3. RESTRICTIONS ON THE PROVISION OF INMATE**  
20 **TELEPHONE AND VIDEO SERVICE.**

21           (a) DEFINITIONS.—Section 226(a) of the Commu-  
22           nications Act of 1934 (47 U.S.C. 226(a)) is amended by  
23           adding at the end the following:

24                   “(10) The term ‘ancillary fee’ includes any  
25           charge or fee that is imposed on a user of inmate

1 telephone and video service in addition to the per-  
2 minute rate and connection charge.

3 “(11) The term ‘collect’ or ‘collect call’ means  
4 a telephone call or video call from a person incarcer-  
5 ated in a correctional institution that is billed to the  
6 subscriber receiving the call.

7 “(12) The term ‘commission’ means a fee or  
8 other payment by a provider of inmate telephone  
9 and video service to an administrator of a correc-  
10 tional institution, department of correction, or simi-  
11 lar entity, based upon, or partly upon, inmate tele-  
12 phone and video service revenue.

13 “(13) The term ‘debit account’ means the pay-  
14 ment of inmate telephone and video service through  
15 a prepaid card or other account of a prisoner, which  
16 can be accessed only through an access code, per-  
17 sonal identification number, or similar identifier.

18 “(14) The term ‘inmate telephone and video  
19 service’ includes the provision of telephone and video  
20 service enabling persons incarcerated in correctional  
21 institutions to originate calls at payphones, tele-  
22 phones, or video kiosks that are designated for the  
23 personal use of prisoners, regardless of whether the  
24 calls are collect, paid through a debit account, or  
25 paid through any other means.

1           “(15) The term ‘provider of inmate telephone  
2           and video service’ means any common carrier that  
3           provides inmate telephone and video service or any  
4           other person determined by the Commission to be  
5           providing inmate telephone and video service.”.

6           (b) REGULATIONS.—Section 226 of the Communica-  
7           tions Act of 1934 (47 U.S.C. 226) is amended—

8           (1) by redesignating subsection (i) as subsection  
9           (k); and

10           (2) by inserting after subsection (h) the fol-  
11           lowing:

12           “(i) REGULATION OF INMATE TELEPHONE AND  
13           VIDEO SERVICE.—

14           “(1) IN GENERAL.—In order to ensure that  
15           charges for inmate telephone and video service are  
16           just, reasonable, and nondiscriminatory, not later  
17           than 1 year after the date of enactment of the Fam-  
18           ily Telephone Connection Protection Act of 2015,  
19           the Commission shall adopt regulations on the use  
20           of inmate telephone and video service that—

21           “(A) prescribe a maximum uniform per-  
22           minute compensation rate;

23           “(B) prescribe a maximum uniform service  
24           connection or other per-call compensation rate;

1           “(C) prescribe variable maximum com-  
2           pensation rates depending on such factors as  
3           carrier costs, the size of the correctional facility  
4           served, and other relevant factors identified by  
5           the Commission;

6           “(D) require providers of inmate telephone  
7           and video service to offer both collect calling  
8           and debit account services;

9           “(E) address the payment of commissions  
10          by providers of inmate telephone and video  
11          service to administrators of correctional institu-  
12          tions, departments of correction, and similar  
13          entities by—

14                 “(i) prohibiting such payments; or

15                 “(ii) limiting commission payments;

16          “(F) require administrators of correctional  
17          institutions, departments of correction, and  
18          similar entities to allow more than 1 provider of  
19          inmate telephone and video service to provide  
20          interstate inmate telephone and video service at  
21          a correctional institution so that prisoners have  
22          a choice of such providers; and

23          “(G) prohibit or substantially limit any an-  
24          cillary fees imposed by a provider of inmate



1 telephone and video service on a user of the  
2 service.

3 “(2) SCOPE.—

4 “(A) IN GENERAL.—The regulations  
5 adopted by the Commission under this sub-  
6 section—

7 “(i) shall be technologically neutral;

8 and

9 “(ii) shall not jeopardize legitimate se-  
10 curity and penological interests.

11 “(B) IMPACT ON REVENUE.—To the extent  
12 the regulations adopted by the Commission  
13 under this subsection reduce or eliminate the  
14 revenue derived by administrators of correc-  
15 tional institutions, departments of correction,  
16 and similar entities from the receipt of commis-  
17 sions, such effects of the regulations shall not  
18 be considered to be jeopardizing or otherwise  
19 affecting legitimate security or penological in-  
20 terests.

21 “(3) PERIODIC REVIEW.—The Commission shall  
22 review, on a biennial basis, the regulations adopted  
23 under this subsection, including to determine wheth-  
24 er any compensation rates established by the Com-  
25 mission should be modified.

1           “(4) STATE PREEMPTION.—To the extent that  
2           any State, local government, or private correctional  
3           facility requirements are inconsistent with the regu-  
4           lations of the Commission affecting or pertaining to  
5           inmate telephone and video service, including restric-  
6           tions on the payment of commissions based upon in-  
7           mate telephone and video service revenues or earn-  
8           ings, the regulations of the Commission on such  
9           matters shall preempt the State, local government,  
10          or private correctional facility requirements.

11          “(j) INMATE TELEPHONE AND VIDEO SERVICE  
12          FULLY SUBJECT TO SECTIONS 201, 205, 251, 252, AND  
13          276.—

14                 “(1) IN GENERAL.—Inmate telephone and video  
15                 service shall be fully subject to the requirements of  
16                 sections 201, 205, 251, 252, and 276.

17                 “(2) RESTRICTION.—A provider of inmate tele-  
18                 phone and video service may not block or otherwise  
19                 refuse to carry a call placed by an incarcerated per-  
20                 son on the grounds that the provider has no contrac-  
21                 tual or other arrangement with the local exchange  
22                 carrier serving the intended recipient of the call or  
23                 other common carrier involved in any portion of the  
24                 transmission of the call.”.

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