

# House Research Act Summary

**CHAPTER:** 408

**SESSION:** 2000 Regular Session

**TOPIC:** Local and State Correctional Facilities; Inmate Telephone Access

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## Overview

This act allows a state correctional institution to develop reasonable policies that meet constitutional guidelines to govern an inmate's telephone access to an attorney with whom the inmate wishes to consult. Current law requires the institution to grant the person reasonable telephone access and provides a misdemeanor penalty and additional civil penalty for a failure to grant this access. Under the act, this requirement and the corresponding penalties continue to apply to requests for telephone access in local jails and detention centers, but the penalties do not apply to the failure to provide telephone access in state correctional facilities.

### 1 **Consultation with persons restrained.**

**Subd. 1. Consultation.** Current law requires officers or persons who have in their custody a person restrained of liberty to admit an attorney for a private interview at the place of custody, unless an imminent danger of escape exists. This act provides that the attorney also does not need to be admitted where imminent danger of injury exists. Strikes a requirement that the custodian notify the attorney of the request for a consultation as soon as practicable, but retains the requirement that the notice occur before other proceedings shall be had.

Strikes language granting a person reasonable telephone access to the person's attorney free of charge to the attorney or person restrained. This language is moved to subdivisions 2 and 3. Also strikes language providing penalties for a violation of this section (misdemeanor penalty and additional \$100 penalty recoverable through a civil action). Language similar to the stricken language appears in subdivision 4 (local jails and detention centers).

**Subd. 2. Telephone access in local jails and detention centers.** Requires officers or persons to provide a person whose liberty is restrained with private telephone access to the person's attorney at no charge to the attorney or person restrained, unless an imminent danger of escape or injury exists. Requires the telephone access to be provided as soon as practicable following

the request of the person restrained and before other proceedings take place regarding the alleged offense causing custody.

**Subd. 3. Telephone access in correctional facilities and institutions.** Requires officers or persons to provide a person whose liberty is restrained while serving an executed sentence in a state correctional facility to provide private telephone access to the person's attorney at no charge to the attorney or person restrained, unless an imminent danger of escape or injury exists. Provides that telephone access shall be provided following the request of the person restrained and in accordance with reasonable policies adopted by the institution that meet constitutional requirements.

**Subd. 4. Criminal penalty.** Provides that a person who violates subdivision 1 or 2 is guilty of a misdemeanor and also must forfeit \$100 to the aggrieved person, to be recovered in a civil action. Provides that this penalty does not apply to telephone access deprivations by officers in state correctional facilities (subdivision 3).