

# **NATIONWIDE JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE AFTER ARREST**

**Chicago Appleseed Center for Fair Courts | July 2021**



*ChicagoAppleseed.org*

## INTRODUCTION

---

Governor JB Pritzker signed the Safety Accountability Fairness and Equity - Today (SAFE-T) Act in February of 2021. Among the many police and criminal legal system provisions in the law, the SAFE-T Act (IL PA 101-0652) solidifies the right to communicate for all people arrested in Illinois.

In this context, the “Right to Communicate” refers to statutorily enforced rights for people to communicate with the outside world upon being arrested or detained by law enforcement. Without the ability to contact friends, family, or access legal representation at the time of arrest, people may not fully understand or have the ability to safely invoke their Fifth or Sixth Amendment rights. This is particularly an issue in Chicago, where the police department has a history of coercing confessions. Chicago Appleseed’s own research - based on a dataset of approximately 536,000 Chicago Police Department (CPD) arrest records covering 2014 to 2020 - found at least 6,282 cases of people held by CPD for longer than 10 hours, for a maximum of 2 days, between the time of first detainment and official booking; 3,103 of those cases were of people held longer than 48 hours, for a maximum of 4 days from initial arrest to release.<sup>1</sup>

With the provisions of the SAFE-T Act, Illinois is now one of only a handful of the only states in the US with explicit, protected access to communication rights for people in police custody. Before the SAFE-T Act, people arrested in Illinois were given the “right to communicate with an attorney of their choice and a member of their family by making a *reasonable number* of telephone calls...within a *reasonable time* after arrival at the first place of custody.” Unfortunately, law enforcement often interpreted the word “reasonable” in an unreasonable way - and made people wait as long as 72 hours to access a phone. Now, effective in 2022, all law enforcement officials in Illinois will be required to provide people they have arrested with the ability to make *three phone calls within three hours* of arriving at a detention facility (the time starts over at a new facility) and give people the ability to retrieve phone numbers saved on their cellphones. Likewise, law enforcement is required to display the phone numbers for police station representation units (PSRU) of local Public Defenders’ Offices, if applicable, like in Cook County.<sup>2</sup>

Chicago Appleseed Center for Fair Courts conducted a nationwide analysis<sup>3</sup> of the right to communicate in each US state based on the combination of each states’ statutes, case law, informal programs, and statements from regional attorneys. Each state was sorted into one of three categories (no clear protections, moderate protections, and strong protections) by looking at seven key areas of difference:

---

<sup>1</sup> See e.g., <https://www.chicagoappleseed.org/2020/12/10/cpd-arrest-holding-times/>

<sup>2</sup> See e.g., <https://www.cookcountypublicdefender.org/quick-help-topics/someones-been-arrested>

<sup>3</sup> This analysis was completed by Mercedes Molina, Robina Public Interest Scholar at the University of Minnesota Law School and a Public Interest Law Initiative (PILI) Intern, and Dane Christensen, dual graduate of the University of Chicago’s Law School and Booth School of Business and Public Interest Law Initiative (PILI) Fellow for Chicago Appleseed. More information can be found on our website: [ChicagoAppleseed.org/Community-Resources/](https://www.ChicagoAppleseed.org/Community-Resources/).

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

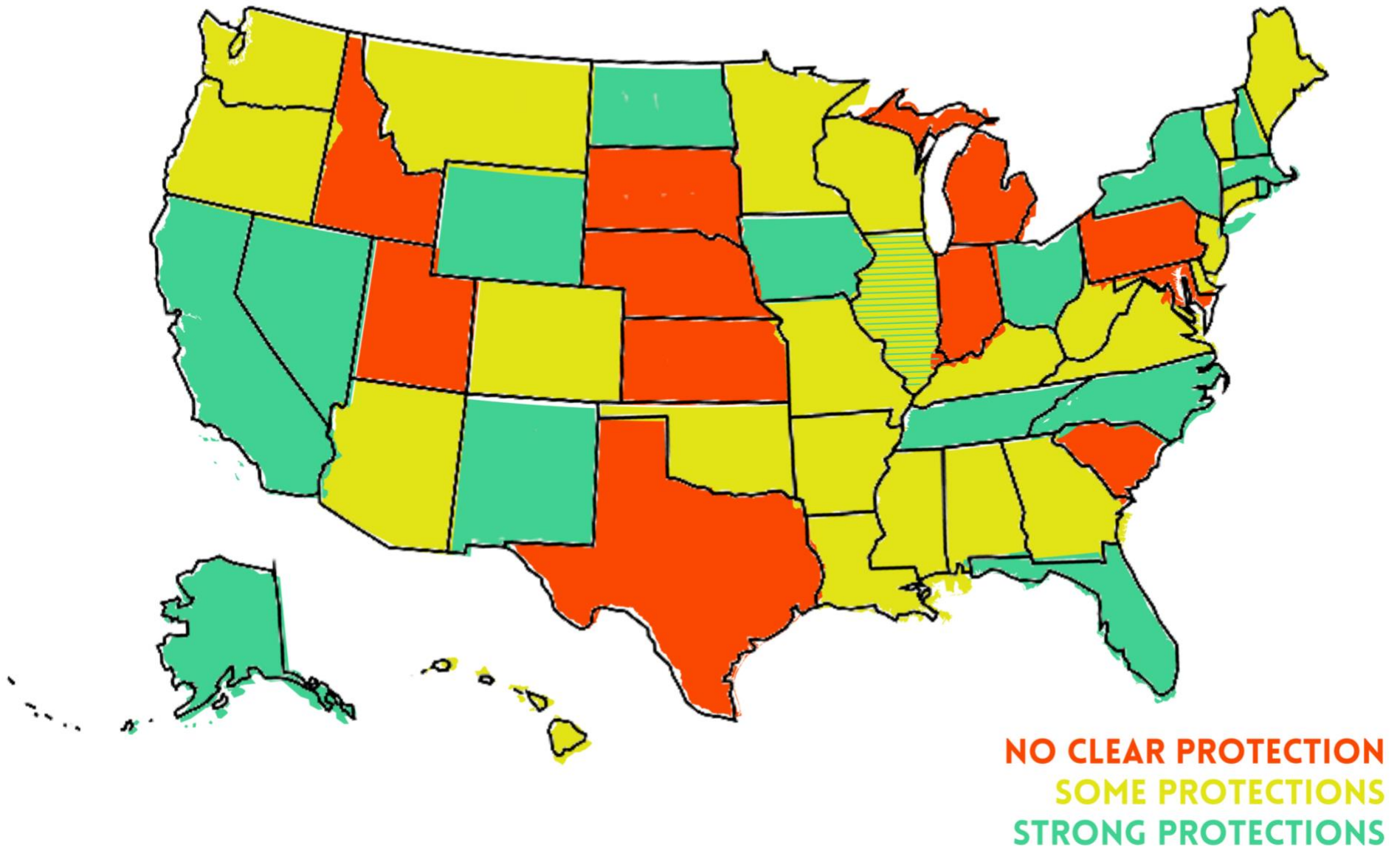
1. **Timeframe** | Some states specify mandatory time ranges of within one or three hours of arriving to a law enforcement facility, while others stipulate “within a reasonable amount of time,” “without undue delay,” or “upon request” of the arrested remain silent entirely on timeframe. Those states without laws specifying for phone calls use similar language for time timeframe in which the accused should be brought before a magistrate or allowed to meet with their attorneys.
2. **Recipient** | Some states allow people to contact a family member, friend, or childcare, while others limit calls to contact with the sole purpose of securing of council.
3. **Number of Calls** | Some states specify the number of phone calls (from one to three) that people are allowed to make, while others simply allow for “a” call, a “reasonable number” of calls to secure an attorney, to not delay any procedural requirements, or simply state the right “to call.”
4. **Expense** | Most states allow local calls free of charge but require payment for long-distance phone calls, while others allow any call to be made at no expense to the arrested person.
5. **Stipulation of Officer Penalties** | Some states stipulate criminal penalties for law enforcement officers who withhold phone call rights to detainees while others remain silent.
6. **Eligibility Based on Offense** | Some states codify or recognize phone privileges after arrest, but do not allow for a phone call prior to submitting to a chemical test (breathalyzer, blood test) or in domestic violence situations.
7. **Privacy** | Some specify that privacy is only to be provided when speaking with an attorney, while others remain silent at the matter. The general rule of thumb is that attorney-client conversations are subject to privilege, but if the accused is speaking to anyone other than an attorney, can officers listen and use conversations as evidence against the person?

Chicago Appleseed’s analysis found that about 46% of states provide “moderate protections” for their residents, 22% of states have “no clear protections,” and only 32% — 16 states — provide “strong protections” for people’s right to communicate.

- **Strong Protections** | Illinois (once the SAFE-T Act goes into effect in 2022), Alaska, California, Colorado, Florida, Iowa, Massachusetts, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Rhode Island, and Tennessee.
- **Moderate Protections** | Alabama, Arizona, Arkansas, Connecticut, Delaware, Georgia, Hawaii, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, New Jersey, Oklahoma, Oregon, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.
- **No Clear Protections** | Idaho; Indiana; Kansas; Maryland; Michigan; Nebraska; Pennsylvania; South Carolina; South Dakota; Texas; and Utah.

*The following table includes the breakdown of each jurisdiction based on statute or informal program and the key differences found in our analysis; the map below reflects the findings demonstrated in the table.*

## NATIONWIDE SURVEY OF ARRESTED PEOPLE'S RIGHT TO COMMUNICATE



## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

### CODE:

**Strong Protections:** States with strong, broad rights to a phone call for arrestees either in statutes or case law. These states specify such items as definite or immediate timeframe for call, specific number of or multiple calls, etc.

**Moderate Protections:** These are states where the right to a phone call for arrested people seems to be generally accepted, but it is difficult to find a statute or case law that points to that right. Or, if defined by statute, the terms are overly vague.

**No Clear Protections:** Nothing in statute and/or these states have been identified by local attorneys and organizations as a jurisdiction in which phone calls are not afforded to arrestees.

JURISDICTION	STATUTE OR PROGRAM	SUMMARY	KEY AREAS OF DIFFERENCE
<b>CURRENT ILLINOIS<sup>4</sup></b>	Illinois Statutes Chapter 725. Criminal Procedure §-3. Right to Communicate with Attorney and Family; Transfers  <i>Effective 1963</i>	“(a) Persons who are arrested shall have the right to communicate with an attorney of their choice and a member of their family by making a reasonable number of telephone calls or in any other reasonable manner. Such communication shall be permitted within a reasonable time after arrival at the first place of custody.  (b) In the event the accused is transferred to a new place of custody his right to communicate with an attorney and a member of his family is renewed.”	Timeframe: “Reasonable time.”  Number of Calls: “Reasonable number of phone calls.”  Recipients: Specifies attorney or family members.
<b>NEW ILLINOIS<sup>5</sup></b>	Illinois Public Act 101-0652  <i>Effective January 2022</i>	Amends the Code of Criminal Procedure (1963) to explicitly provide that every person in police custody has: “the right to communicate free of charge with an attorney of their choice and family members as soon as possible, upon being taken into police custody, but no later than one-hour after arrival at the first place of custody and before any questioning by law enforcement occurs;” access to a phone to make at least three calls; the ability to retrieve phone numbers contained in their cell phone; and, if the jurisdiction’s Public Defender has a stationhouse representation unit, that telephone number must be prominently displayed.	Timeframe: “No later than one hour after arrival at the first place of custody.”  Expense: “Free of charge.”  Number of Calls: Three calls.  Recipients: Specifies attorney or family members.

<sup>4</sup> See e.g., <https://codes.findlaw.com/il/chapter-725-criminal-procedure/il-st-sect-725-5-103-3.html>

<sup>5</sup> See e.g., <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=101-0652> and <http://chicagocouncil.org/062620-cpd-barriers-stationhouse-lawsuit/>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>ALABAMA<sup>6</sup></b>	ARCP Rule 4. Arrest and initial appearance. Rule 4.2. Telephone Call after Arrest	<p>“Any person under arrest shall be afforded an opportunity to make a telephone call to any person that he or she may choose, without undue delay.”</p> <p>You have a right to know the charges against you. You have the right to communicate by telephone with your attorney or family or friend or bondsman as soon after you are brought to the police station as practical. The police have a right to complete their booking procedures before you are allowed to use the telephone.</p>	Timeframe: “Without undue delay.”
<b>ALASKA<sup>7</sup></b>	AS 12.25.150. Rights of Prisoner After Arrest  <i>Effective December 2007</i>	(b) Immediately after an arrest, a prisoner shall have the right to telephone or otherwise communicate with the prisoner's attorney and any relative or friend, and any attorney at law entitled to practice in the courts of Alaska shall, at the request of the prisoner or any relative or friend of the prisoner, have the right to immediately visit the person arrested.	Timeframe: “Immediately after an arrest.”
<b>ARIZONA<sup>8</sup></b>	<i>Common practice as described by regional attorney.</i>	“Within a reasonable time after you have been taken into custody, you have a right to make a reasonable number of telephone calls or otherwise communicate with an attorney of your choice and a member of your family.”	Timeframe: “Reasonable time.”  Number of Calls: “Reasonable number of phone calls.”
<b>ARKANSAS<sup>9</sup></b>	Arkansas Code 16-85-101. Right to attorney, physician, and phone calls.	<p>“(a) While confined and awaiting trial in any prison or jail in this state, no prisoner shall be denied the right to: (1) Consult an attorney of the prisoner's own choosing; (2) Call a physician of the prisoner's own choosing if in need of one; or (3) Place free telephone calls to a bondsperson if the calls are local calls.</p> <p>(b) Any officer or other person having charge or supervision of any prisoner in the state who refuses to permit the prisoner to consult an attorney of the prisoner's own choosing, call a physician of the prisoner's own choosing, or place free telephone calls to a bondsperson if the calls are local shall be guilty of a Class B misdemeanor.”</p>	<p>Recipients: Affords right to “consult” an attorney “while confined and awaiting trial,” call a doctor, or a bail bondsperson, should the arrested person as to do so.</p> <p>Officer Penalties: Specifies criminal punishments for officers who refuse to grant prisoners’ rights.</p> <p>Expense: Local calls only.</p>

<sup>6</sup> See e.g., [https://judicial.alabama.gov/docs/library/rules/cr4\\_2.pdf](https://judicial.alabama.gov/docs/library/rules/cr4_2.pdf) and <https://www.alabamacivilrightslawyer.com/civil-rights-faq>

<sup>7</sup> See e.g., <http://www.touchngo.com/lglcntr/akstats/statutes/title12/chapter25/section150.htm>

<sup>8</sup> See e.g., <https://www.azduiatty.com/yourrightsifarrested.html>

<sup>9</sup> See e.g., <https://law.justia.com/codes/arkansas/2010/title-16/subtitle-6/chapter-85/subchapter-1/16-85-101>

JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE  
Chicago Appleseed Center for Fair Courts - July 2021

<p><b>CALIFORNIA</b><sup>10</sup></p>	<p>California Code, Penal Code - PEN § 851.5</p>	<p>“(a)(1) Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an arrested person has the right to make at least three completed telephone calls, as described in subdivision</p> <p>(b). (2) The arrested person shall be entitled to make at least three calls at no expense if the calls are completed to telephone numbers within the local calling area or at his or her own expense if outside the local calling area.</p> <p>(b) At any police facility or place where an arrestee is detained, a sign containing the following information in bold block type shall be posted in a conspicuous place. The arrestee has the right to free telephone calls within the local calling area, or at his or her own expense if outside the local calling area, to three of the following:</p> <p>(1) An attorney of his or her choice or, if he or she has no funds, the public defender or other attorney assigned by the court to assist indigents, whose telephone number shall be posted. This telephone call shall not be monitored, eavesdropped upon, or recorded.</p> <p>(2) A bail bondsman.</p> <p>(3) A relative or other person.</p> <p>(c) As soon as practicable upon being arrested but, except where physically impossible, no later than three hours after arrest, the arresting or booking officer shall inquire as to whether the arrested person is a custodial parent with responsibility for a minor child. The arresting or booking officer shall notify the arrested person who is a custodial parent with responsibility for a minor child that he or she is entitled to, and may request to, make two additional telephone calls at no expense if the telephone calls are completed to telephone numbers within the local calling area, or at his or her own expense if outside the local calling area, to a relative or other person for the purpose of arranging for the care of the minor child or children in the parent’s absence.</p> <p>(d) At any police facility or place where an arrestee is detained, a sign containing the following information in bold</p>	<p>Timeframe: “Immediately upon being booked” except “where physically impossible” but no later than 3 hours after arrest.</p> <p>Number of Calls &amp; Expense: Allowed 3 phone calls at no expense (if local), must pay for long distance.</p> <p>Recipients: Within 3 hours of arrest, officer must inquire about children; two additional phone calls allowed to arrange for childcare; given immediately upon request or as soon as practicable and signs to be posted in detention with this information.</p> <p>Penalties: Provides for criminal punishment for officers depriving these rights.</p>
---------------------------------------	--	---	---

<sup>10</sup> See e.g., <https://codes.findlaw.com/ca/penal-code/pen-sect-851-5.html>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

		<p>block type shall be posted in a conspicuous place: The arrestee, if he or she is a custodial parent with responsibility for a minor child, has the right to two additional telephone calls within the local dialing area, or at his or her own expense if outside the local area, for the purpose of arranging for the care of the minor child or children in the parent's absence.</p> <p>(e) These telephone calls shall be given immediately upon request, or as soon as practicable.</p> <p>(f) The signs posted pursuant to subdivisions (b) and (d) shall make the specified notifications in English and any non-English language spoken by a substantial number of the public, as specified in Section 7296.2 of the Government Code , who are served by the police facility or place of detention.</p> <p>(g) The rights and duties set forth in this section shall be enforced regardless of the arrestee's immigration status.</p> <p>(h) This provision shall not abrogate a law enforcement officer's duty to advise a suspect of his or her right to counsel or of any other right.</p> <p>(i) Any public officer or employee who willfully deprives an arrested person of any right granted by this section is guilty of a misdemeanor.”</p>	
<b>COLORADO<sup>11</sup></b>	Title 16. Criminal Proceedings § 16-3-402	<p>“(1) Persons who are arrested shall have the right to communicate with an attorney of their choice and a member of their family by making a reasonable number of telephone calls or by communicating in any other reasonable manner. Such communication shall be permitted at the earliest possible time after arrival at the police station, sheriff's office, jail, or other like confinement facility to which such person is first taken after arrest. (2) If the accused is transferred to a new place of custody, his right to communicate with an attorney and a member of his family is renewed.”</p>	<p>Number of Calls: Allows a reasonable number of phone calls; right renews at new place of custody.</p> <p>Timeframe: Earliest possible time after arrival at station; right to communicate is renewed after being transferred.</p>

<sup>11</sup> See e.g., <https://codes.findlaw.com/co/title-16-criminal-proceedings/co-rev-st-sect-16-3-402.html>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>CONNECTICUT</b> <sup>12</sup>	<i>ACLU describing arrestees' rights.</i>	"If you have been arrested by police, you have the right to make a local phone call. The police cannot listen if you call a lawyer."	Number of Calls & Privacy: May make one local phone call, which may be private if with an attorney.
<b>DELAWARE</b> <sup>13</sup>	<i>ACLU describing arrestees' rights.</i>	"Within a reasonable amount of time after your arrest or booking you have the right to a phone call. Law enforcement officers may not listen to a call you make to your lawyer, but they can listen to calls you make to other people."	Timeframe: "Reasonable amount of time" after arrest/booking  Privacy: Private call if made to lawyer
<b>FLORIDA</b> <sup>14</sup>	<i>Common practice explained by regional attorney.</i>	Once a criminal defendant has been booked, they are allowed to make three local phone calls. If calling long distance, the phone call must be a collect call. A defendant should be careful about what they say during a phone conversation. The Supreme Court of Florida has ruled that there is no expectation of privacy when placing a phone call from jail. Therefore, calls are recorded, and anything spoken can be used as evidence against the defendant at trial.	Number of Calls & Expense: Allowed three local phone calls.
<b>GEORGIA</b> <sup>15</sup>	<i>Common practice explained by regional attorney.</i>	You have the right to make a local phone call. The police cannot listen if you call a lawyer.	Number of Calls, Expense & Privacy: right to one local phone call, which is private if speaking with a lawyer

<sup>12</sup> See e.g., <https://www.acluct.org/en/know-your-rights/know-your-rights-stopped-police-connecticut>

<sup>13</sup> See e.g., <https://www.aclu-de.org/en/know-your-rights/what-do-when-encountering-law-enforcement>

<sup>14</sup> See e.g., <https://accidentshappenatty.com/what-to-do-when-you-get-arrested-in-florida/>

<sup>15</sup> See e.g., <https://www.georgialegalaid.org/resource/your-rights-and-the-police-1>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

HAWAII <sup>16</sup>	HI Rev Stat § 803-9 <i>Effective 2013</i>	<p>“It shall be unlawful in any case of arrest for examination: (1) To deny to the person so arrested the right of seeing, at reasonable intervals and for a reasonable time at the place of the person's detention, counsel or a member of the arrested person's family; (2) To unreasonably refuse or fail to make a reasonable effort, where the arrested person so requests and prepays the cost of the message, to send a telephone, cable, or wireless message through a police officer or another than the arrested person to the counsel or member of the arrested person's family.”</p> <p>101 H. 344 (App.), 68 P.3d 618 (2002): “ Under paragraph (2), there is no duty on the part of police to make a telephone call to an attorney for the arrested person unless and until the arrested person requests the call to be made; the trial court erred in concluding that the police were duty-bound under paragraph (2) to contact the public defender's office on defendant's behalf even though defendant had made no such request.”</p>	<p>Expense: Where the arrested requests and prepays the costs, they may not be refused communications with counsel or family.</p> <p>Timeframe: No timeframe.</p>
IDAHO <sup>17</sup>	Idaho Code § 19-515. No Unnecessary Delay—Attorney May Visit Defendant	<p>“The defendant must in all cases be taken before the magistrate without unnecessary delay, and any attorney at law entitled to practice in courts of record of the state of Idaho may, at the request of the prisoner after such arrest, visit the person so arrested.”</p>	<p><i>No phone call rights specified, just that an attorney may visit the arrested upon request.</i></p>
INDIANA			<p><i>No apparent rights to a phone call specified.</i></p>

<sup>16</sup> See e.g., <https://law.justia.com/citations.html>

<sup>17</sup> See e.g., <https://legislature.idaho.gov/statutesrules/idstat/title19/t19ch5/sect19-515/>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

IOWA <sup>18</sup>	804.20. Communications by Arrested Persons.	“Any peace officer or other person having custody of any person arrested or restrained of the person’s liberty for any reason whatever, shall permit that person, without unnecessary delay after arrival at the place of detention, to call, consult, and see a member of the person’s family or an attorney of the person’s choice, or both. Such person shall be permitted to make a reasonable number of telephone calls as may be required to secure an attorney. If a call is made, it shall be made in the presence of the person having custody of the one arrested or restrained. If such person is intoxicated, or a person under eighteen years of age, the call may be made by the person having custody. An attorney shall be permitted to see and consult confidentially with such person alone and in private at the jail or other place of custody without unreasonable delay. A violation of this section shall constitute a simple misdemeanor.”	<p>Timeframe: “Without unnecessary delay after arrival.”</p> <p>Number of Calls: Allowed “reasonable” number of calls as necessary to secure an attorney.</p> <p>Privacy: Calls to be made in the presence of an officer.</p> <p>Penalties: Criminal penalties specified for officers who deny these rights.</p>
KANSAS	KSA § 22-2901. Appearance Before the Magistrate	“(1) Except as provided in subsection (7), when an arrest is made in the county where the crime charged is alleged to have been committed, the person arrested shall be taken without unnecessary delay before a magistrate of the court from which the warrant was issued. If the arrest has been made on probable cause, without a warrant, he shall be taken without unnecessary delay before the nearest available magistrate and a complaint shall be filed forthwith.”	<i>No apparent rights to a phone call specified, but officers required to bring arrested before the magistrate “without necessary delay”</i>

<sup>18</sup> See e.g., <https://www.legis.iowa.gov/docs/code/804.20.pdf>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>KENTUCKY</b>	<p>1. Ky. RCr Rule 2.14 Right to Contact an Attorney</p> <p>2. KRS 189A.105(3) Right to Consult Attorney before Submitting to Tests</p>	<p>1. “(1) A person in custody shall have the right to make communications as soon as practicable for the purpose of securing the services of an attorney. (2) Any attorney at law entitled to practice in the courts of this Commonwealth shall be permitted, at the request of the person in custody or of someone acting in that person’s behalf, to visit the person in custody.”</p> <p>2. “(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person’s attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.”</p> <p><i>Case law suggests that KRS 189.105(3) has been treated negatively by the courts. In some instances, courts refused to overturn results of chemical tests where officer dialed the phone themselves (Bhattachayra v. Commonwealth) or refused the defendant a call to anyone aside from their attorney (Commonwealth v. Bedway, reversed). Treated not as a right but more as an “opportunity” to “attempt” to call an attorney (Litteral v. Commonwealth, 282 S.W.3d 331, 333 (Ky. App. 2008).</i></p>	<p>Timeframe: “As soon as practicable.”</p> <p>Recipients: Suggests the arrestee is able to make a call to someone other than the attorney to attempt to secure the attorney and includes visitation.</p>
-----------------	---	---	---

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

LOUISIANA	<p>1. La.C.Cr.Pr. Art. 229 Duties of officer in charge</p> <p>2. La.C.Cr.P. Art. 230 Rights of person arrested</p>	<p>1. “The officer in charge of the jail or police station shall immediately inform the prisoner booked: (1) Of the charge against him; (2) Of his rights to communicate with and procure counsel; and (3) Of his right to request a preliminary examination when he is charged with a felony. The officer in charge shall, within forty-eight hours from the time of the booking, notify the district attorney in writing of all persons booked for violation of state statutes, and shall furnish without cost a certified copy of any booking entry to any person requesting it.”</p> <p>2. “The person arrested has, from the moment of his arrest, a right to procure and confer with counsel and to use a telephone or send a messenger for the purpose of communicating with his friends or with counsel.”</p>	<p>Timeframe: Requires the officer to “immediately” inform arrestee of their right to contact and procure counsel. Right present from time of the arrest. Defined in two sections both as the duty of the police officer and the right of the arrestee.</p> <p>Recipients: Right allows communication with friends or counsel.</p>
MAINE <sup>19</sup>	<p><i>Common practice as explained by regional counsel.</i></p>	<p>You have the right to make a local phone call. Assume the police listen, even if you call a lawyer.</p>	<p>Number of Calls &amp; Expense: “one local phone call”</p>
MARYLAND	<p>1. Md. Rule 4-212(e)-(f)</p> <p>2. <i>Moore v. State</i>, 422 Md. 516, 30 A.3d 945 (2011)</p>	<p>1. “The defendant shall be taken before a judicial officer of the District Court without unnecessary delay and in no event later than 24 hours after arrest or, if the warrant so specifies, before a judicial officer of the circuit court without unnecessary delay and in no event later than the next session of court after the date of arrest.” Same procedure/time frame for arrests without warrant.</p> <p>2. Court granted the defendant’s petition for a new trial because his conviction was based on a confession received after (1) he was subjected to a deliberate and unnecessary delay in bringing him before a judicial officer (2) he was 16 at the time (3) his numerous requests to call his mother during the lengthy interrogation were denied.</p>	<p><i>No apparent rights to a phone call specified.</i></p>

<sup>19</sup> See e.g., <https://www.aclumaine.org/en/know-your-rights/know-your-rights-police-encounters>

**JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE**  
*Chicago Appleseed Center for Fair Courts - July 2021*

<b>MASSACHUSETTS<sup>20</sup></b>	Massachusetts G.L. c. 276, § 33A	“The police official in charge of the station or other place of detention having a telephone wherein a person is held in custody, shall permit the use of the telephone, at the expense of the arrested person, for the purpose of allowing the arrested person to communicate with his family or friends, or to arrange for release on bail, or to engage the services of an attorney. Any such person shall be informed forthwith upon his arrival at such station or place of detention, of his right to so use the telephone, and such use shall be permitted within one hour thereafter.”	Timeframe & Expense: Allowed “use of the telephone” at the expense of the arrested within one hour of arriving at the station. Arrested to be informed upon arrival of their phone call rights.  Recipients: The arrested person may “communicate with his family or friends, or...arrange for release on bail, or...engage the services of an attorney.”
<b>MICHIGAN<sup>21</sup></b>	<i>Common practice described by regional attorney.</i>	Police are obligated to tell you why you are being arrested, show you any warrants associated with your arrest, and bring you to court as soon as possible, but a phone call is not an obligation. Some states do have laws allowing the right for a phone call or consultation, but Michigan is not one of those states.	<i>No specified right to a phone call whatsoever.</i>
<b>MINNESOTA<sup>22</sup></b>	<i>ACLU of MN describing arrestees’ rights.</i>	Within a reasonable time after your arrest or booking, you have the right to make a local phone call to a lawyer, bail bondsman, relative, or any other person. The police may not listen in on your call to a lawyer.	Timeframe: Within a “reasonable time after” arrest/booking.  Expense: May make a local phone call.  Privacy: Private if made to attorney
<b>MISSISSIPPI<sup>23</sup></b>	MSRCP Rule 5.1 Procedure upon Arrest.	“Any person under arrest shall be afforded a reasonable opportunity to make a telephone call to, or otherwise make effective communication with, any person the accused may choose.”	Timeframe: “Reasonable opportunity to make a telephone call.”

<sup>20</sup> See e.g., <https://malegislature.gov/laws/generallaws/partiv/titleii/chapter276/section33a>

<sup>21</sup> See e.g., <https://www.attorneymichaelmanley.com/posts/myths-of-being-arrested/>

<sup>22</sup> See e.g., <https://www.aclu-mn.org/en/know-your-rights/what-if-im-stopped-police>

<sup>23</sup> See e.g., <https://courts.ms.gov/research/rules/msrulesofcourt/Rules%20of%20Criminal%20Procedure%20Post-070118.pdf>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>MISSOURI</b> <sup>24</sup>	<i>Common practice described by regional attorney.</i>	"You must be allowed to call a lawyer."	
<b>MONTANA</b> <sup>25</sup>	<p>1. MCA 46-6-107 Miranda Warning Prior to Custodial Interrogation</p> <p>2. Mont. Const. art. II § 25 (self- incrimination)</p> <p>3. State v. Main, 2011 MT 123, 360 Mont. 470, 255 P.3d 1240</p>	<p>1. "Before interrogating a person who is in custody, a peace officer shall inform the person that the person has the right to remain silent, that anything the person says can be used against the person in a court of law, that the person has the right to speak to an attorney and to have an attorney present during any questioning, and that if the person cannot afford an attorney, one will be provided for the person at no cost to the person. A person who is stopped under 46-5-401 is not in custody unless the stop goes beyond the purposes of that section."</p> <p>2. Discusses defendant's right to an attorney during criminal investigation.</p> <p>3. In this case, the defendant asked police prior to custodial interrogation for "a phone to call [his] mom to call [his] attorney." Defendant was refused. MT. Supreme Court found the defendant's request was insufficient to constitute an unequivocal request for an attorney (intoxication also played a role in the voluntary waiver of counsel).</p>	<p>Recipients: No apparent rights to a phone call specified, but case law suggests the right is afforded as long as the arrestee's intent is unequivocal to contact an attorney.</p>
<b>NEBRASKA</b> <sup>26</sup>	RRS Neb. § 29-401 Law Violators; Arrest by Sheriff	"Every sheriff, deputy sheriff, marshal, deputy marshal, security guard, police officer, or peace officer as defined in subdivision (15) of section 49-801 shall arrest and detain any person found violating any law of this state or any legal ordinance of any city or incorporated village until a legal warrant can be obtained..."	<i>No apparent rights to a phone call specified, but the ACLU of NE notes that the assumption exists when describing people's rights.</i>

<sup>24</sup> See e.g., [lawinfo.com/resources/criminal-defense/missouri/what-are-my-rights-if-im-arrested.html](http://lawinfo.com/resources/criminal-defense/missouri/what-are-my-rights-if-im-arrested.html)

<sup>25</sup> See e.g., [https://leg.mt.gov/bills/mca/title\\_0460/chapter\\_0060/part\\_0010/section\\_0070/0460-0060-0010-0070.html](https://leg.mt.gov/bills/mca/title_0460/chapter_0060/part_0010/section_0070/0460-0060-0010-0070.html)

<sup>26</sup> See e.g., <https://www.aclunebraska.org/en/know-your-rights/rights-with-law-enforcement>

**JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE**  
*Chicago Appleseed Center for Fair Courts - July 2021*

<b>NEVADA<sup>27</sup></b>	NRS § 171.153 Right of Person Arrested to Make Telephone Calls	<p>“Any person arrested has the right to make a reasonable number of completed telephone calls from the police station or other place at which the person is booked immediately after the person is booked and, except where physically impossible, no later than 3 hours after the arrest. Such telephone calls may be limited to local calls, except that long distance calls may be made by the arrested person at his or her own expense.</p> <p>A reasonable number of calls must include one completed call to a friend or bail agent and one completed call to an attorney.”</p>	<p>Timeframe: “Immediately after the person is booked,” with a maximum amount of time of 3 hours after arrest.</p> <p>Number of Calls: “Reasonable number” of calls, not just one.</p> <p>Recipients: Must include completed call to attorney, friend, bail agent; each attempt is separate.</p> <p>Expenses: Allows for non-local call at own expense.</p>
<b>NEW HAMPSHIRE<sup>28</sup></b>	<p>1. RSA 594:15 Notice of Arrest</p> <p>2. RSA 594:16 Conference with Friends or Counsel</p> <p>3. RSA 594:17</p>	<p>1. “The officer in charge of a police station to which an arrested person is brought shall immediately secure from the prisoner, if possible, the name of the parent, nearest relative, friend or attorney with whom the prisoner may desire to consult, and shall immediately notify such relative, friend or attorney of the detention of the prisoner, when possible. Notice shall be given by telephone or messenger when practicable.”</p> <p>2. “The officer in charge of a police station shall permit the prisoner to confer with his attorney at all reasonable times...Such officer shall establish regular visiting hours during which the prisoner shall be allowed to confer with relatives and friends.”</p> <p>3. Failure to meet RSA 594:15-16 provisions results in guilt of a misdemeanor.</p>	<p>Timeframe, Expense, &amp; Privacy: According to the ACLU of NH, “Within a reasonable time after your arrest, or booking, you have the right to make a local phone call: to a lawyer, bail bondsman, a relative or any other person. The police may not listen to the call to the lawyer.”</p> <p>1. Requires the officer in charge of the station to notify someone of the arrest on behalf of the arrestee “immediately.”</p> <p>3. Allows arrestee to communicate with others “at all reasonable times,” but allows the officer discretion in setting the times.</p> <p>Penalties: 4. Provides for a penalty when an officer does not meet the above requirements.</p>

<sup>27</sup> See e.g., <https://www.leg.state.nv.us/nrs/nrs-171.html#NRS171Sec153>

<sup>28</sup> See e.g., <https://www.aclu-nh.org/en/news/542012what-do-if-youre-stopped-police-or-arrested>; <http://www.gencourt.state.nh.us/rsa/html/LIX/594/594-15.htm#:~:text=%E2%80%9320The%20officer%20in%20charge%20of,friend%20or%20attorney%20of%20the>; and <http://www.gencourt.state.nh.us/rsa/html/LIX/594/594-16.htm>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<p><b>NEW JERSEY</b></p>	<p>1. NJ Court Rules R. 3:4-1 Procedure After Arrest</p> <p>2. State v. Hicks, 228 NJ Super. 541</p> <p>3. <i>Castillo v. Stepien</i>, Docket No. 05-1073 (DRD), 2009 U.S. Dist. LEXIS 109565 (D.N.J. Nov. 24, 2009).</p>	<p>1. No mention of phone call: “If a Complaint-Warrant (CDR-2) has been prepared, without unnecessary delay, and no later than 12 hours after arrest, the matter shall be presented to a judge, or, in the absence of a judge, to a judicial officer who has the authority to determine whether a warrant or summons will issue.”</p> <p>2. Defendant was arrested for drunk driving and required to submit to a blood test. Officer read him his rights, which included his ability to take the test by a doctor of his own choosing with lawyer present. Officer denied the defendant the ability to make a phone call to contact his family who would in turn contact a doctor/attorney.</p> <p>3. Defendant sued officer for violation of rights during pretrial detention. Court found that the 6th amendment rights of the accused were not violated because the defendant did not seek to invoke their right to counsel by making a phone call (stating clearly she planned to call a doctor or family member).</p>	<p>1. No apparent right to a call, but quick timeline for seeing a judge and guaranteed representation at that point.</p> <p>Disqualifiers:</p> <p>2. State v. Hicks found the right to a phone call for those accused of drunk driving to be a statutory right but did not point to the statute that guarantees that right.</p> <p>Recipients:</p> <p>3. <i>Castillo v. Stepien</i> suggests that phone request of phone call is a sufficient invocation of counsel, but that the call must be unequivocal in its intent to contact an attorney.</p> <p>The court held that the denial of the right to a phone call is acceptable in instances where the denial serves an interest reasonably related to a legitimate government interest.</p>
<p><b>NEW MEXICO<sup>29</sup></b></p>	<p>NM Stat § 31-1-5(A) Effective 2011</p>	<p>“Following arrest, any person accused of a crime is entitled to have a reasonable opportunity to make three telephone calls beginning not later than twenty minutes after the time of arrival at a police station, sheriff’s office or other place of detention. Nothing in this subsection limits any right to make telephone calls at any time later than twenty minutes after the time of arrival at the police station.”</p>	<p>Timeframe: 20 minute maximum after entering station. Clock starts after arrival at police station or detention facility.</p> <p>Number of Calls: Provides for 3 phone calls, rather than just one.</p> <p>Recipients: No limits to who the arrestee can call.</p>

<sup>29</sup> See e.g., <https://law.justia.com/codes/new-mexico/2015/chapter-31/article-1/section-31-1-5/>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<p><b>NEW YORK<sup>30</sup></b></p>	<p>1. Goodcall Program<sup>31</sup></p> <p>2. New York Crim. Pro. § 120.90(8) and § 140.20(7)</p> <p>3. NYCLU Know Your Rights Info</p> <p>4. People v. Gursey, 22 N.Y.2d 224, 292 N.Y.S.2d 416, 239 N.E.2d 351 (1968).</p>	<p>1. Since October 2016, the Goodcall program, a public-nonprofit partnership between the Bronx Defenders and Legal Aid Society, has connected arrestees with attorneys and loved ones.</p> <p>2. “Upon arresting a defendant . . . a police officer shall, upon the defendant’s request, permit the defendant to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located anywhere in the US or PR, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of a defendant.”</p> <p>3. State law provides an attorney at arraignment. Arrestees are given a phone call within a “reasonable time” after arrest or booking and upon request.</p> <p>4. “In light of current recognition of the importance of counsel in criminal proceedings affecting significant legal rights, law enforcement officials may not, without justification, prevent access between the criminal accused and his lawyer, available in person or by immediate telephone communication, if such access does not interfere unduly with the matter at hand.”</p> <p>“As a matter of fairness, government ought not to compel individuals to make binding decisions concerning their legal rights in the enforced absences of counsel” (quoting People v. Ianniello, 21 N.Y.2d 148, 153).</p>	<p>Timeframe:</p> <p>2. Reasonable time, but at the defendant’s request.</p> <p>3. Right to phone call within reasonable time after arrest/booking.</p> <p>Recipients/Disqualifiers:</p> <p>4. Case dealt specifically with the right of an individual to contact counsel prior to submitting to a chemical test. The ruling in this sense was general, though, and can be applied to any instance in which the accused invokes their right to counsel.</p>
-------------------------------------	---	--	---

<sup>30</sup> See e.g., <https://www.ownit.nyc/posts/best-of-brooklyn-good-call>; <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>; ; and <https://www.nyclu.org/en/know-your-rights/what-do-if-youre-stopped-police>

<sup>31</sup> The Goodcall Program is modeled after Cook County’s Police Station Representation Unit (PSRU) services but is split up by borough: Bronx Defenders currently only handle Bronx arrestees and Legal Aid handles other boroughs. This program is based on the Cook County Public Defender’s Police Station Representation Unit (PSRU).

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<p><b>NORTH CAROLINA<sup>32</sup></b></p>	<p>1. GS § 15A-501(5)  2. Greensboro PD Directives Manual</p>	<p>1. “Upon the arrest of a person, with or without a warrant, but not necessarily in the order hereinafter listed, a law-enforcement officer: (5) Must without unnecessary delay advise the person arrested of his right to communicate with counsel and friends and must allow him reasonable time and reasonable opportunity to do so.”  2. “Upon reaching the jail or other holding facility for prisoners, the arresting officer or transporting officer will . . . Ensure the arrestee has the opportunity to use the telephone.”</p>	<p>Timeframe: “without unnecessary delay” (to inform them of their right to contact counsel, not to allow them to communicate with counsel). Notes “reasonable time” should be allotted to the arrestee for completion of the phone call.”  Penalties: Places arresting officer/transporting officer in charge of ensuring the individual receives the opportunity to call.</p>
<p><b>NORTH DAKOTA<sup>33</sup></b></p>	<p>1. ND Cent. Code § 29-05-20 [effective through July 31, 2021] Unnecessary delay after arrest prohibited-- attorney visitation.  2. ND Cent. Code § 29-05-20 [effective Aug. 1, 2021]  3. Kuntz v. State Highway Comm’r, 405 N.W.2d 285, 290 (N.D. 1987)  4. Mayo v. Moore, 527 N.W.2d 257, 261 (N.D. 1995)</p>	<p>1. “The accused in all cases must be taken before a magistrate without unnecessary delay and any attorney at law entitled to practice in the courts of record of this state, at the attorney’s request, may visit such person after that person’s arrest.”  2. “The accused in all cases must be taken before a magistrate without unnecessary delay, and any attorney at law entitled to practice in the courts of record of this state, at the request of the attorney or the accused, may visit the accused after the accused’s arrest.”  3. The court held that a person arrested for drunk driving has a limited statutory right under ND Cent. Code § 29-05-20 to consult with counsel before deciding whether to submit to a chemical test.  4. The court held that the police should not prevent the accused from contacting family or friends unless the call was long distance and as long as the time for phone calls, testing, and the booking process is not unduly extended.</p>	<p>1-4. <i>Does not specify right to phone call in codified language, but does in case law.</i>  Timeframe: 4. Says the booking/testing processes should not be “unduly extended” by provision of a phone call.  Recipients: 3. Mentions right prior to submission to a chemical test.  Expense: 4. Does not allow right for long distance calls.</p>

<sup>32</sup> See e.g., [https://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_15A/GS\\_15A-501.pdf](https://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_15A/GS_15A-501.pdf) and <https://www.greensboro-nc.gov/Home/ShowDocument?id=25639>

<sup>33</sup> See e.g., <https://www.legis.nd.gov/cencode/t29c05.pdf#nameddest=29-05-20>; <https://casetext.com/case/kuntz-v-state-highway-comr>; and <https://cite.case.law/nw2d/527/257/>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

OHIO <sup>34</sup>	<p>1. Ohio State Bar Association</p> <p>2. ORC Ann. 2935.20</p> <p>3. ORC Ann. 2935.14</p>	<p>1. Arrestees have the right to contact “a responsible person” by phone or otherwise to let them know they have been arrested and what the charges are.</p> <p>2. “After the arrest, detention, or any other taking into custody of a person, with or without a warrant, such person shall be permitted forthwith facilities to communicate with an attorney at law of his choice who is entitled to practice in the courts of this state, or to communicate with any other person of his choice for the purpose of obtaining counsel. Such communication may be made by a reasonable number of telephone calls or in any other reasonable manner.</p> <p>Such person shall have a right to be visited immediately by any attorney at law so obtained who is entitled to practice in the courts of this state, and to consult with him privately.</p> <p>No officer or any other agent of this state shall prevent, attempt to prevent, or advise such person against the communication, visit, or consultation provided for by this section. Whoever violates this section shall be fined not less than twenty-five nor more than one hundred dollars or imprisoned not more than thirty days, or both.”</p> <p>3. “If the person arrested is unable to offer sufficient bail or, if the offense charged be a felony, he shall...not thereafter be confined or removed from the county or from the situs of initial detention until such attorney has had reasonable opportunity to confer with him privately, or other person to arrange bail, under such security measures as may be necessary under the circumstances.</p> <p>Whoever, being a police officer in charge of a prisoner, or the custodian of any jail or place of confinement, violates this section shall be fined not less than one hundred nor more than five hundred dollars or imprisoned not more than thirty days, or both.”</p>	<p>Timeframe: “Speedily.”</p> <p>Number of Calls: 2. Allows for a “reasonable number” of phone calls to be made for the arrestee to get into contact with someone for assistance.</p> <p>Penalties: 2-3. Sets penalties for an officer or jail custodian who violates provisions.</p> <p>Recipients: 1. “Reasonable person.” 3. Applies only where the person is unable to offer bail or is charged with a felony. Requires that the arrestee not be removed or confined thereafter until having the opportunity to communicate with their attorney or someone else to arrange for bail.</p>
--------------------	--	---	--

<sup>34</sup> See e.g. [https://www.ohiobar.org/globalassets/law-facts/pamphlet-pdfs/lf\\_police\\_stop\\_pdf.pdf](https://www.ohiobar.org/globalassets/law-facts/pamphlet-pdfs/lf_police_stop_pdf.pdf) and <https://codes.ohio.gov/ohio-revised-code/section-2935.14>

**JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE**  
*Chicago Appleseed Center for Fair Courts - July 2021*

<p><b>OKLAHOMA<sup>35</sup></b></p>	<p>1. 22 Okl. St. § 251 Duty to Inform Defendant of the Charges and Rights</p> <p>2. 22 Okl. St. § 252 Right to Contact Counsel-- Change of Venue</p>	<p>1. “When the defendant is brought before a magistrate upon an arrest, either with or without a warrant, on a charge of having committed a public offense, the magistrate must immediately inform him of the charge against him, and of his right to the aid of counsel in every stage of the proceedings, and also of his right to waive an examination before any further proceedings are had.”</p> <p>2. “He must also allow to the defendant a reasonable time to send for counsel and adjourn the examination for that purpose; and must, upon the request of the defendant, require a peace officer to take a message to such counsel in the county or city as the defendant may name. The officer must, without delay, perform that duty, and shall receive fees therefor as upon a service of a subpoena: Provided, However, that at any time before the examination is begun, a change of venue may be had, for the same causes and in the same manner, and be transmitted to another justice, as in cases finally triable before a justice of the peace.”</p>	<p><i>May only be informed of rights and offered an opportunity to call counsel at the time the arrested appears before the magistrate, but according to the ACLU of OK describing arrested people’s rights: “If you have been arrested by police, you have the right to make a local phone call.”</i></p> <p>Timeframe: “Reasonable time.” Requires an officer assist in transmission of messages “without delay.” Starts over for a change of venue.</p> <p>Privacy: “The police cannot listen if you call a lawyer. They can and often do listen if you call anyone else” (ACLU).</p>
<p><b>OREGON<sup>36</sup></b></p>	<p>1. § 133 OR Criminal Procedure: Arrest and Related Procedures</p> <p>2. Oregon State Bar: Your Rights if You Are Arrested</p> <p>3. Or. Const. art. I § 12</p> <p>4. State v. Meade, 327 Ore. 335, 339, 963 P2d 656 (1998).</p>	<p>There is no mention in § 133 of provision of a phone call after arrest, but § 133.787 alerts arrestee to the right to demand legal counsel. Section also generally refers to the requirement of officers to notify arrestees of their “constitutional rights.”</p> <p>2. Notes that the number of phone calls may be limited so the arrestee should contact a relative that can help them seek counsel.</p> <p>3. “A level of coercion is inherent in any custodial setting and a lawyer’s presence at a custodial interrogation is one way to ensure the right to be free from compelled self-incrimination.”</p>	<p><i>No codified requirements surrounding phone calls after arrest.</i></p> <p>2-3. Case law shows that the right to a phone call follows from the Oregon Constitution’s assertion of the right to counsel and right against self-incrimination.</p> <p>Specifics surrounding demand of that right require the police to assess the totality of the circumstances when the right is unequivocal and to clarify if necessary prior to continuing questioning.</p>

<sup>35</sup> See e.g., <https://www.acluok.org/en/know-your-rights/stopped-police> and <https://oksenate.gov/sites/default/files/2019-12/os22.pdf>

<sup>36</sup> See e.g., [https://www.oregonlegislature.gov/bills\\_laws/ors/ors133.html](https://www.oregonlegislature.gov/bills_laws/ors/ors133.html) and [https://www.osbar.org/public/legalinfo/1077\\_ArrestRights.htm](https://www.osbar.org/public/legalinfo/1077_ArrestRights.htm)

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>PENNSYLVANIA</b> <sup>37</sup>	Pa. Const. Art. I § 9: Right against Self-Incrimination	No right to phone call. Police must either release arrestee or bring them before a magisterial judge “within a reasonable amount of time.”	<i>No apparent rights to a phone call specified.</i>
<b>RHODE ISLAND</b> <sup>38</sup>	RI Gen Laws § 12-7-20: Right to Use Phone Call to Call to Attorney -- Bail Bondsperson	“Any person arrested under the provisions of this chapter shall be afforded, as soon after being detained as practicable, not to exceed one hour from the time of detention, the opportunity to make use of a telephone for the purpose of securing an attorney or arranging for bail; provided, that whenever a person who has been detained for an alleged violation of the law relating to drunk driving must be immediately transported to a medical facility for treatment, he or she shall be afforded the use of a telephone as soon as practicable, which may exceed one hour from the time of detention. The telephone calls afforded by this section shall be carried out in such a manner as to provide confidentiality between the arrestee and the recipient of the call.”	<p>Timeframe: “As soon after being detained as practicable.” Places 1-hour maximum time limit from the time the arrestee has been detained.</p> <p>Privacy: Places extra emphasis on the arrestee’s privacy and confidentiality when making the phone call.</p> <p>Recipients: Title notes the phone call should be limited to calling an attorney or bail bondsperson.</p>
<b>SOUTH CAROLINA</b> <sup>39</sup>	<p>1. SC Code Ann. §§ 17-13-10 - 17-13-170 Arrest, Process, Searches and Seizure</p> <p>2. State v. Settles, Docket No. 2018-UP-214, 2018 S.C. App. Unpub. LEXIS 214, *4 (App. May 23, 2018).</p>	<p>1. No language in the SC Code of Criminal Procedure or other statutes detailing this right.</p> <p>2. Court refused to grant the defendant’s motion to suppress statements made in a custodial interview because he was denied the right/ability to make a phone call prior to the interview. The defendant failed to point to any law that established that right, however, and refused to uphold such a right.</p>	<i>No apparent rights to a phone call specified.</i>

<sup>37</sup> See e.g., <https://www.aclupa.org/en/know-your-rights/know-your-rights-police-and-immigration-agents> and <https://blog.princelaw.com/2018/02/20/after-an-arrest-in-pennsylvania-you-get-a-free-phone-call-right-well-not-exactly/>

<sup>38</sup> See e.g., <https://law.justia.com/codes/rhode-island/2014/title-12/chapter-12-7/section-12-7-20/>

<sup>39</sup> See e.g., <https://www.aclusc.org/en/know-your-rights/what-do-if-you-are-stopped-police>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>SOUTH DAKOTA</b>	SD Const. Article VI, § 7	“In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.”	<i>No apparent rights to a phone call specified.</i>
<b>TENNESSEE<sup>40</sup></b>	Tenn. Code Ann. § 40-7-106(b)	“No person under arrest by any officer or private citizen shall be named in any book, ledger or any other record until after the person has successfully completed a telephone call to an attorney, relative, minister or any other person that the person shall choose, without undue delay. One (1) hour shall constitute a reasonable time without undue delay. However, if the arrested person does not choose to make a telephone call, then the person shall be booked or docketed immediately.”	Timeframe: “Within a reasonable time without undue delay,” defined as one hour. Requires the arrestee be given a phone call prior to the booking process.  Recipients: Calls can be made to any person.
<b>TEXAS<sup>41</sup></b>	Meals v. Hale County Sheriff's Office, Docket No. 5:10-CV-00045-BG, 2011 U.S. Dist. LEXIS 160553 (N.D. Tex. Aug. 18, 2011)	Court found the defendant did not have a protected liberty in placing a phone call upon booking as there is no state statute affording this right to pre-trial detainees in the state of Texas.	<i>There are currently no statewide laws requiring phone calls upon arrest.</i>  Two bills (SB 303 and HB 2580) proposed to allow people to make a local phone call (ACLU, but no mention in the Texas Penal Code, Texas Code of Criminal Procedures, or the Texas Local Gov. Code) but neither passed.
<b>UTAH<sup>42</sup></b>	Utah Code Ann. § 77-7-6 Manner of Making Arrest or § 77-7-2 Arrest, by Whom, and How Made	No mention of provision of phone call after arrest.	<i>No apparent rights to a phone call specified.</i>

<sup>40</sup> See e.g., <https://codes.findlaw.com/tn/title-40-criminal-procedure/tn-code-sect-40-7-106.html>

<sup>41</sup> See e.g., <https://capitol.texas.gov/Search/DocViewer.aspx?ID=86RSB003031B&QueryText=arrest%3b%2bOR%2bcall&DocType=B;>  
<https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB02580H.pdf#navpanes=0;> and <https://guides.sll.texas.gov/protest-rights/police>

<sup>42</sup> See e.g., <https://le.utah.gov/xcode/Title77/Chapter7/77-7.html>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>VERMONT</b> <sup>43</sup>	<p>1. 13 VSA § 5231 Right to representation, services, and facilities</p> <p>2. 23 VSA § 1202(d)</p>	<p>1. “(a) A needy person who is being detained by a law enforcement officer without charge or judicial process, or who is charged with having committed or is being detained under a conviction of a serious crime, is entitled: (1) To be represented by an attorney to the same extent as a person having his or her own counsel; and (2) To be provided with the necessary services and facilities of representation.”</p> <p>2. Requires police requesting evidentiary tests from accused to inform them of their right to consult with an attorney prior to submitting to the test.</p>	<p><i>No apparent rights to a phone call specified but presumed to fall within the requirement that an arrestee be provided with the necessary services and facilities of representation.</i></p>
<b>VIRGINIA</b> <sup>44</sup>	<p>VA. Code Ann. § 19.2-80 Duty of Arresting Officer; Bail</p>	<p>No mention of provision of phone call after arrest. Discusses only immediacy of bringing the arrested before a magistrate.</p>	<p><i>No apparent rights to a phone call specified in state statutes or in case law but recognized by the legal community.</i></p> <p>Privacy: “If you opt for a phone call with a family member or friend, the police can and probably will listen in on that phone call. The police cannot, however, listen to a call between you and your lawyer” (ACLU of VA).</p>
<b>WASHINGTON</b> <sup>45</sup>	<p>1. RCW Chapter 10.31 Warrants and Arrests</p> <p>2. Wash. CRR 3.1(b)(1) Right to and assignment of lawyer: stage of proceedings</p>	<p>1. Details instances in which an arrest can be made with or without a warrant.</p> <p>2. The right to a lawyer shall accrue as soon as feasible after the defendant is taken into custody, appears before a committing magistrate, or is formally charged, whichever occurs earliest.</p>	<p>No apparent rights to a phone call specified, but the right to a lawyer accrues “as soon as feasible” after the arrestee is taken into custody...”</p> <p>CRR 3.1(b)(1) unclear at what point right to counsel can be invoked.</p>

<sup>43</sup> See e.g., <https://legislature.vermont.gov/statutes/section/13/163/05231>

<sup>44</sup> See e.g., <https://acluva.org/en/know-your-rights/police>

<sup>45</sup> See e.g., <https://app.leg.wa.gov/RCW/default.aspx?cite=10.31>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<p><b>WEST VIRGINIA<sup>46</sup></b></p>	<p>§62-1-6. Informing defendant of nature of complaint and his rights; opportunity to confer with counsel and arrange bail.</p>	<p>“[Judge] shall provide the defendant reasonable means to communicate with an attorney or with at least one relative or other person for the purpose of obtaining counsel or arranging bail. The defendant shall not be committed to jail or removed from the county of arrest until he has had a reasonable opportunity to confer with counsel or to arrange bail. He may be detained under such security measures as the circumstances warrant. If the defendant is unable to provide bail or if the offense is unbailable, he shall be committed to jail.”</p>	<p><i>Does not require phone call but “reasonable means” to communicate.</i></p> <p>Timeline: Does not allow for movement of arrestee until they have had “reasonable opportunity” to communicate with attorney.</p> <p>Recipients: Allows for communication with both attorney and a relative but must be made for the purpose of obtaining bail.</p>
<p><b>WISCONSIN<sup>47</sup></b></p>	<p>1. Wis. Stat. § 967.06(2)(a) Determination of indigency; appointment of counsel; preparation of record</p> <p>2. United States v. Millen, 338 F.Supp. 747</p>	<p>1. “Except as provided in par. (b), a person entitled to counsel under sub. (1) who indicates at any time that he or she wants to be represented by a lawyer, and who claims that he or she is not able to pay in full for a lawyer’s services, shall immediately be permitted to contact the authority for indigency determinations specified under s. 977.07 (1). The authority for indigency determination in each county shall have daily telephone access to the county jail in order to identify all persons who are being held in the jail. The jail personnel shall provide by phone information requested by the authority.”</p> <p>2. Defendant’s motion to suppress evidence gathered in a custodial interrogation was granted because the court found the defendant did not properly waive his Miranda rights and the defendant was denied a phone call to contact counsel prior to interrogation.</p> <p>Court saw the request to make a phone call as a valid exercise/assertion of the defendant’s right to counsel. Refusal to allow the defendant to make a phone call prior to interrogation impeded the defendant’s ability to properly waive the right to counsel.</p>	<p><i>No apparent rights to a phone call specified except with mention of contact in the context of indigent arrestees seeking legal services.</i></p> <p>Timeframe: “Immediately</p>

<sup>46</sup> See e.g., <http://www.wvlegislature.gov/wvcode/code.cfm?chap=62&art=1>

<sup>47</sup> See e.g., <https://law.justia.com/codes/wisconsin/2012/chapter-968/section-968.07/> and <https://docs.legis.wisconsin.gov/statutes/statutes/967/07>

## JURISDICTIONAL COMPARISON OF THE RIGHT TO COMMUNICATE

Chicago Appleseed Center for Fair Courts - July 2021

<b>WYOMING<sup>48</sup></b>	<p>1. Rule 6, W.R.Cr.P.</p> <p>2. Wyo. Stat. § 7-6-105 Advisement of Rights; Appointment of Attorney</p>	<p>1. "Every defendant who is unable to obtain counsel shall be entitled to have counsel assigned to represent him at every stage of the proceedings from his initial appearance before the commissioner or the court through appeal, unless he waives such appointment."</p> <p>2. "(a) A needy person who is being interrogated by law enforcement personnel for a serious crime, or who is a probationer or parolee, shall be informed of his right to be represented by an attorney at public expense. If the person being interrogated does not have an attorney and wishes to have the services of an attorney, he shall be provided the opportunity to contact the nearest public defender."</p>	<p><i>No apparent rights to a phone call specified in statutes or case law, but the ACLU of WY specifies: "You have the right to make a local phone call."</i></p> <p>Privacy: "The police listen if you call a lawyer" (ACLU).</p>
-----------------------------	--	---	---

<sup>48</sup> See e.g., <https://www.aclu-wy.org/en/know-your-rights/know-your-rights-interacting-law-enforcement>