

# CORRECTIONS IMPACT STATEMENT

SESSION: 16RS

BILL #: HB 223

BR #: 468

DOC ID#: BR046800.100 - 468 - 958

BR020300.100 - 203 - 403

BILL SPONSOR(S): Rep. J. Kay AMENDMENT SPONSOR(S): I

SUBJECT: AN ACT relating to attorneys and their non-lawyer assistants.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 520 to authorize a lawyer or his or her non-lawyer assistant to possess a cell phone or other personal electronic device within a local detention facility.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

Creates new crime(s)

Repeals existing crime(s)

Increases penalty for existing crime(s)

Decreases penalty for existing crime(s)

Increases incarceration

Decreases incarceration

Reduces inmate/offender services

Increases inmate/offender services

Increases staff time or positions

Reduces staff time or positions

Changes elements of offense for existing crime(s)

Otherwise impacts incarceration (Explain) Allows cell phones in secured local facilities.

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$61.09. Most Class D felons are housed in one of 78 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.92 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

**Projected Impact:**  NONE  MINIMAL  MODERATE  SIGNIFICANT

Creates no new felonies. Section

This legislation will have no impact on the Department of Corrections.

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Potential Impact: Section 1 The proposed legislation allows an attorney or his non-lawyer assistant to bring a personal electronic device including a cellular telephone into a local detention facility. Cell phones are considered Dangerous Contraband in adult institutions and are not allowed due to the security risks they create. A cellular telephone can be used by an inmate or a pre-adjudicated offender to contact parties outside the facility to continue criminal activity including intimidating witnesses. A "Smart Phone" could be used by an offender to access social media and the internet for any number of reasons including the harassment of victims. In addition a cell phone or smart phone could be used to arrange an escape or to have contraband such as drugs smuggled into the facility. A cell phone in the hands of an offender is a way for unmonitored communication to occur where as other forms of communication such as mail and phone calls can be monitored.

The fiscal impact would be an increase in costs of staffing the facility to locate and remove contraband. In addition, if an inmate were to use an unmonitored form of communication to continue criminal enterprises outside of the facility then there could be extra costs associated with law enforcement and prosecution of said criminal enterprises.

Local jailers have concerns with this legislation as introducing cell phones into local detention facilities creates an immediate danger to the operations of local jails. Among the concerns by local officials is the possibility of phones being lost by their owners in a local jail and then being utilized by inmates to transmit photos of security infrastructure, phones being used for sending unauthorized or illegal messages to persons in the community among many other concerns.

Based on the \$31.34 per diem rate, the local impact is estimated as follows:

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections    Dept. of Kentucky State Police    Administrative Office of the Courts    Parole Board    Other

**NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments.**

**APPROVED BY:**

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 Commissioner, Kentucky Department of Corrections

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 Date