

**Local Mandate Fiscal Impact Estimate  
Kentucky Legislative Research Commission  
2016 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 925

**Bill #:** HB 250 HCS

**Bill Subject/Title:** Crimes and punishments.

**Sponsor:** Rep. Ruth Ann Palumbo

Unit of Government:  City                   County                   Urban-County  
                                                                                          Charter County     Consolidated Local     Unified Local  
                                                                                                                                                                                                                          Government

**Office(s) Impacted:** Local law enforcement and local jails

**Requirement:**  Mandatory  Optional

**Effect on Powers & Duties:**  Modifies Existing     Adds New     Eliminates Existing

**Part II: Purpose and Mechanics**

Section 1 of HB 250, as introduced, amends KRS 431.015 so that a police officer **may (rather than shall per current law)** issue a citation, rather than make an arrest, for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. Section 1 also deletes an exception in current law that allows a police officer to make an arrest, rather than issue a citation, for certain misdemeanors committed in his or her presence.

**The HCS deletes the Section 1 amendment to KRS 431.015 and replaces it with a new amendment to KRS 431.015.** The new amendment retains the current KRS 431.015 language that a police officer **shall** issue a citation, rather than make an arrest, for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The new amendment restores the exception that was deleted in HB 250, as introduced, while expanding the exception to allow a police officer to make an arrest, rather than issue a citation, for four additional misdemeanors committed in his presence. These four misdemeanors are established by: KRS 511.050 (Possession of burglar’s tools), 511.085 (Domestic violence shelter trespass), 514.110 (Receiving stolen property), and Section 2 of the Act.

Section 2 of HB 250, as introduced, amends KRS 523.110 to expand the current crime of giving a false name or address to a police officer. The crime becomes giving a police officer false identifying information, including a false name, address, date of birth, Social Security number, state identification card number, or operator license number. The new crime, like the old, is a Class B misdemeanor.

**The HCS makes technical changes to Section 2 of the measure as introduced.**

### **Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

**The fiscal impact of the HCS on local governments is expected to be a minimal increase in costs for local law enforcement and jails.**

The Kentucky Association of Chiefs of Police state that passage of the HCS would mean a minimal increase in costs for police departments. Section 1 of the HCS retains the current KRS 431.015 preference for a police officer issuing a citation rather than making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. However, Section 1 provides for a minimal expansion of the exception that grants a police officer the discretion to make an arrest rather than issue a citation when certain misdemeanors are committed in his or her presence. So there should be a few more arrests. When a police officer makes an arrest, the officer transports the individual to jail where he or she is booked. Sometimes a trial follows. A police officer waits in court to testify, more than once if necessary, and then testifies. As a result, Section 1 imposes a minimal increase in costs on police.

Section 1 of the HCS also imposes minimal costs on jails. According to the Louisville Metro Corrections Director, in 2010 there were 45,161 bookings, and the average daily population of the jail was 1,930 inmates (137 over capacity). After enactment of KRS 431.015 in 2011, these numbers steadily declined until 2014 (the last year for which figures are available) when there were 36,740 bookings with an average daily population of 1,851 (58 over capacity). According to the Director, KRS 431.015 has been one factor in reducing bookings and the jail population. Passage of the HCS amendment to KRS 431.015 would mean minimal increases in bookings and the jail population across the Commonwealth. Both bookings and housing inmates in jails cost money. Housing an inmate costs \$68 per day in Louisville and \$31.92 per day, on average, in the rest of Kentucky.

Section 2 of the HCS expands the current crime of giving a false name or address to a police officer. The crime becomes giving a police officer false identifying information, including a false name, address, date of birth, Social Security number, state identification card number, or operator's license number. The new crime, like the old, is a Class B misdemeanor. The new crime is almost identical to identity theft (KRS 514.160), a Class

D felony. The Kentucky Supreme Court ruled in *Crouch v. Commonwealth* that giving a false name and Social Security number to a police officer in order to avoid detection constitutes identity theft. (Attempting to gain a financial benefit is not necessarily an element of the crime.) Since Section 2 does not contain language that clarifies the relationship between the section and the identity theft statute, it is unclear what impact the section will have on crimes and punishments in Kentucky.

**Data Source(s):** Kentucky Association of Chiefs of Police; WRDB News (January 21, 2016); *Crouch v. Com* (Ky. 2010) 323 S.W. 3<sup>rd</sup> 668; Department of Corrections; KRS

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