

CORRECTIONS IMPACT STATEMENT

SESSION: 16RS

BILL #: HB 40 SCS

BR #: 17

DOC ID#: BR001700.100 - 17 - 12

BILL SPONSOR(S): Rep. Owens AMENDMENT SPONSOR(S): Rep. Owens

SUBJECT: .AN ACT relating to criminal records.

SUMMARY OF LEGISLATION: Amend KRS 431.076 to expand the scope of an expungement motion under that statute to include felonies referred to a grand jury where no indictment ensues; amend KRS 431.078 to expand that statute's expungement process to include Class D felonies; amend KRS 527.040 to expressly provide that an expunged felony does not trigger the application of that statute; create a new section of KRS Chapter 413 to prohibit the introduction of information pertaining to an expunged conviction as evidence in a civil suit or administrative proceeding alleging negligent hiring or licensing.

HB40 - AMENDMENTS

HCS1/CI/LM - Amend to allow discretionary expungement of a second or subsequent felony, after a first felony is expunged.

HFA1(D. Owens) - Amend to prohibit expungement of violations of KRS 522.050, 531.335, or 529.110.

SCS1/CI/LM - Add offenses to the category of expungable convictions; reduce waiting period from ten years to five; require service of the application on prosecutors; require prosecutor to respond within 60 days; allow court to extend to 120 days; allow court to set a hearing after response received or 120 days pass; create index of vacated and expunged convictions and prohibit an individual from vacating and expunging a second conviction; split filing fees to include refundable and nonrefundable portions; allow court discretion to expunge multiple unrelated misdemeanors.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|--|--|
| <input type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input checked="" type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____ | |

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

Section _____ The proposed legislation will allow for persons with certain class D felonies to apply for expungement. There is a \$500 fee for the expungement and it can only be applied for 5 years after serve out of completions of a person's probation or parole. Upon entry of an order vacating or expunging a conviction the Department Of Corrections would be required to delete or remove the records from the computers system so that the matter shall not appear on official state performed background checks. The Department of Corrections processed than 208 expungements for 2015. This bill is expected to increase staff time to research and process the expungement of records; however, the impact is expected to be minimal.

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 \$31.92 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Creates no new misdemeanor offenses. Section _____

This legislation will have no effect on local government.

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: _____

Commissioner, Kentucky Department of Corrections

_____ Date