

## CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: HB 110 Introduced

BR #: 117

DOC ID#: BR011700.100 - 117 - XXXX

BILL SPONSOR(S): Rep. Wayne

AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to the establishment of the External Detainee Fatality Review Panel.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 441 to establish the External Detainee Fatality Review Panel to conduct comprehensive reviews of all fatalities of individuals detained in county or regional jails or any facility operated by the Department of Corrections, the Department of Juvenile Justice, or an entity under contract with either department.

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 checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <u>Establishes a Review Panel.</u> |  |

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$66.82. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.41 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

Potential Impact:

The proposed legislation has several areas that would impact the Department of Corrections. The Commissioner of the Department of Corrections would serve on the panel.

Upon request, the Department of Corrections, Department of Juvenile Justice, Office of the Medical Examiner, jails, entities or organizations that are involved in providing services or investigating incidents pertaining to deceased detainees have 30 days to turn over their un-redacted records. The legislation also states that records are required from the time of intake. For individuals in the custody of the Department of Corrections this could be years' worth of records.

In 2016 there were 50 deaths in custody, and 66 deaths within the Department of Corrections in 2015. For inmates who passed away in 2016 while in state custody, the average length of incarceration was 8.67 years. Time in state custody prior to death ranged from 7 days to 42.6 years.

The number of records vary based on the length of incarceration and amount of medical records for the incarcerated individual. Due to the length of sentences individuals have, death by natural causes is very common. For the 50 offenders who passed away in 2016, there are over 10,000 documents and record entries in the Department of Corrections Offender Management System for subject areas relevant to this legislation. This does not include medical records, which are maintained in a separate electronic medical records system. Not all of these records would be pertinent to the Fatality Review Panel proposed by this legislation, but identifying and compiling records that are subject to disclosure would be very time consuming and staff intensive.

If there is an investigation into a death that was not natural causes, the case may be subject to investigation with the State Police. Some of the required documentation may be used in a criminal investigation or civil litigation.

The impact to the Department of Corrections would mainly come in the form of staffing and time to compile requested documentation. The Department currently submits data to the Bureau of Justice Statistics who collects data nationally for the Deaths in Custody Reporting Program.

**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.

**Projected Impact:** ☐ NONE ☐ MINIMAL ☒ MODERATE ☐ SIGNIFICANT

Potential Impact:

Jails would be directly impacted by the proposed legislation. There were 31 deaths in jail facilities in 2015 and 20 deaths in jail facilities in 2016.

Jails are required to notify the law enforcement for any death which occurs in their custody. If it is an investigation into a death that was not natural causes, the case may be subject to investigation. Some of the required documentation may be used in a criminal investigation or civil litigation.

Under the proposed legislation, jails would be required to turn over any records since the time of booking for an individual who passed away while detained. The number of records vary based on the length of incarceration and amount of medical records for the incarcerated individual. This would involve a large amount of records and would be very time consuming and staff intensive for jails.

**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