

CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 207 GA

BR #: 1100

DOC ID#: HB020730.100 - 1100 - XXXX

BILL SPONSOR(S): Rep. J. Nemes, J. Petrie, D. Elliott, C. McCoy, D. St. Onge, J. Wayne

AMENDMENT SPONSOR(S): Rep. J. Nemes

SUBJECT: AN ACT relating to cell phones.

SUMMARY OF LEGISLATION: Amend KRS 520.010 to allow persons who are in a detention facility in a professional capacity to possess a cell phone or other personal electronic device.

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) Amends the definition of dangerous contraband to create an exception.

STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$70.12. 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 \$31.45 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 MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

HB 207 provides an exception to Dangerous Contraband under KRS 520.010 for cell phones under specified conditions within a detention facility. The legislation would not consider cell phones as dangerous contraband for individuals who are not detained within the detention facility, if the individual is present at the detention facility within a professional capacity, and the individual maintains possession of the device at all times and does not permit anyone detained within the detention facility to use the device.

The proposed legislation does not prohibit the detention facility from prohibiting cell phones in the facility.

Of offenders incarcerated for Promoting Contraband 1st Degree under KRS 520.050, the Department is not able to separate out the type of dangerous contraband in each offense. However, the Department of Corrections averages 48 incidents per year within the state prison facilities of cell phones located as contraband. This does not include occurrences of cell phones introduced as contraband within jail facilities.

The bill provides an exception for individuals at a detention facility in a professional capacity. Without a specified definition, professional capacity could be construed broadly and may apply to any discipline.

Allowing individuals in a detention facility to have access to cell phones may increase the risk of offenders gaining access to a cell phone. Cell phones can be used to disrupt detention facility operations, undermine facility security functions, and assist criminal behavior that can be detrimental to staff and inmate safety. Access to cell phones by the offender population results in the inability for prison officials to monitor inmate communication and screen for intelligence and also deter other criminal activity and victimization. Smart phones that have the ability to photograph secure areas or provide camera locations compromises the security of both staff and inmates.

House Committee Substitute:

There is no additional impact to the Department of Corrections under the House Committee Substitute.

House Floor Amendment:

The House Floor Amendment specifies that the bill is applicable to jails, removing state prison facilities. The House Floor Amendment restricts the application of cell phones to specified jail staff, attorneys, and other designated legal staff operating in a jail.

As amended, there is no impact to the Department of Corrections under the bill.

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$114,808 to \$574,040

1 Class D Felon costs KY \$11,481 to \$57,404

100 Class D Felons cost KY \$1.1M to \$5.7M

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 MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

Local detention facilities would face similar security concerns under this bill.

House Committee Substitute:

An additional section is created for HB 207 under this Committee Substitute requiring jailers to create policies in conformity with the legislation to govern possession and use of cell phones within their jails by the jailer, deputy jailers, attorneys, and those acting on their behalf. The policies shall be posted on entry to the jail and copies made available to attorneys and others. The policies shall allow, but may place reasonable conditions upon when attorneys can use cell phones in conjunction with their professional services within a detention facility.

The House Committee Substitute is specific to jails and would require jailers to establish and post restrictions related to cell phone use in the detention facility, as provided for under this statute.

House Floor Amendment:

The House Floor Amendment impacts local corrections as it relates to jail operations and policies.

The House Floor Amendment amends the definition of dangerous contraband, exempting from dangerous contraband cell phones as authorized under Section 2 of the bill.

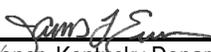
Section 2 provides instructions for jailers, who shall create policies regarding the use of cell phones within jails by jailers, deputy jailers, attorneys, and non-lawyer assistants. The policies have to be clearly stated and posted in the entry of the jail and copies made available upon request. The policies shall allow, but may provide reasonable conditions, for attorneys to use cell phones in connection with their professional services in a detention facility.

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. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY:



Commissioner, Kentucky Department of Corrections

3/21/18
Date