

CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 70 GA

BR #: 217

DOC ID#: HB007030.100 - 217 - XXXX

BILL SPONSOR(S): Rep. J. Fischer, K. King, C. Morgan, J. Sims Jr, W. Stone

AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to sex offender registrants.

SUMMARY OF LEGISLATION: Amend KRS 17.546 to prohibit sex offender registrants from knowingly or intentionally using electronic communications for the purpose of soliciting, contacting, communicating with, or gathering information about a person less than 18 years of age; provide an exception for a registrant using electronic communications to contact, communicate with, or gather information about his or her minor child if not otherwise prohibited and if permitted by the sentencing court; amend KRS 17.510 to require a registrant to provide written notice of all phone numbers, electronic mail addresses, and usernames used by a registrant to electronically communicate with a person less than 18 years of age.

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 type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input checked="" 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 \$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 70 revises social media and computer usage for offenders subject to the sex offender registry. Definitions for instant messaging, chat room program, and social networking web site are deleted and merged into a new definition of electronic communications. The legislation prohibits sex offender registrants from knowingly or intentionally using electronic communication for the purpose of soliciting, contacting, communication with, or gathering information about a minor. Exceptions are provided for children, permissions from the sentencing court, or if the registrant is not otherwise restricted from contact or communications with the minor. The penalty for this offense is a Class A misdemeanor.

A sex offender registrant shall provide all phone numbers, electronic mail address, and usernames used to electronically communicate with a person who is a minor within twenty-four (24) hours of first use. This information is subject to verification. Violations of the sex offender registry are a Class D felony for the 1st Offense and a Class C felony for each subsequent offense.

Currently there are four (4) offenders on supervision for KRS 17.546 Sex Offender IM/Chat/Social Network Use. Additionally, there are currently 253 offenders in custody and 307 offenders on supervision for KRS 17.510 Sex Offender Registration, Failure to Comply, or Providing False/Misleading/Incomplete information. AOC indicates 181 convictions for KRS 17.510 Failure to Comply with Sex Offender Registration from Circuit Court in FY 2017 (including inchoate offenses). It is not possible to determine how many of these would stem from electronic communication violations; however, this specific violation would be a smaller subset of the offenders convicted under KRS 17.510.

The changes proposed in this legislation is not expected to have an additional impact on incarceration or supervision costs for the Department of Corrections. The number of offenders in violation of this law would be expected to be consistent with current law violations of social network use.

House Committee Substitute:

Section 1 clarifies that sex offender registrants who have committed a criminal offense against a victim who is a minor after the effective date of the legislation would be prohibited from knowingly or intentionally using electronic communications for the purpose of communicating with or gathering information about a minor. The exception as ordered by the sentencing court outlined in the previous version of the bill is expanded to court order, terms of probation, shock probation, conditional discharge, parole, or any

other form of early release. In section 2, electronic mail address(s), instant messaging, chat, or other Internet communication usernames is removed from the definition of registrant information under KRS 17.500. Section 3, KRS 17.510, removes the requirement that a registrant provide his or her electronic mail address(s), instant messaging, chat, or other Internet communication usernames to the Division of Probation and Parole for the purpose of the sex offender registry. It also removed the Probation & Parole Officer's responsibilities to forward the Internet usernames and electronic mail address(s) to the Kentucky State Police for inclusion in the sex offender registry requirements. The obligation to verify the information is also removed. Section 4 removes wording related to Internet usernames and electronic mail address(s) as it pertains to the sex offender registry website. This information was not previously identified with the registrant on the sex offender registry, but was provided to the public by way of a search function.

The House Committee Substitute would remove criminal charges under KRS 17.510 related to failure to comply or providing false/misleading/incomplete information specifically involving electronic mail address(s), instant messaging, chat, or other Internet communication usernames.

The House Committee Substitute would alleviate a portion of the sex offender registration duties from Probation & Parole Officers.

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1.3M to \$2.6M
1 Class C Felon costs KY \$127,972 to \$255,944	100 Class C Felons cost KY \$12.8M to \$25.6M
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)

Under the proposed legislation, sex offenders in violation of using electronic communications to contact or communicate with minors shall be subject to a Class A misdemeanor.

According to AOC data, in FY 2017, there were fourteen (14) offenders convicted in Circuit Court and thirty-five (35) convictions in District Court for KRS 17.546 Sex Offender IM/Chat/Social Network Use. The revisions included in this legislation for electronic communication is not expected to substantially increase or decrease the number of misdemeanor offenders who may be convicted under KRS 17.546 Sex Offender IM/Chat/Social Network Use.

Accordingly, there is no anticipated additional impact for local corrections based on the provisions of HB 70.

A Class A misdemeanor is 90 days to 1 year in jail	10 Class A misdemeanants: \$28,206 to \$114,391
1 Class A misdemeanant: \$2,821 to \$11,439	100 Class A misdemeanants: \$282,060 to \$1,143,910

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

1/19/2018
Date