

- Fine of not more than \$1,000 per individual, nor more than \$5,000 per corporation or twice the amount of gain received as a result of the violation, whichever is greater.
- Class D felony; imprisonment of not less than 1 year, nor more than 5 years;
- Class C felony; imprisonment of not less than 5 years, nor more than 10 years;
- Class B felony; imprisonment of not less than 10 years, nor more than 50 years.
 - Fine for a Class D, C, B felony; not more than \$10,000 per individual, nor more than \$100,000 per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

HB 151 SCS 1 expands the list of individuals and agencies whom are required to report insurance fraud to include: Board of Medical Licensure, Board of Chiropractic Examiners, Board of Nursing, Board of Physical Therapy, Board of Occupational Therapy, and the Board for Massage Therapy. Those listed above and the Department of Workers' Claims shall provide any information requested by the Commissioner.

HB 151 SCS 1 provides that in the absence of malice, fraud, or gross negligence, the list of those whom shall not be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information is expanded to include the list of people / agencies in the preceding paragraph.

HB 151 SCS 1 provides "news-gathering organizations" access to accident reports, but only for the purpose of publishing or broadcasting as a news story. The definition of a "news-gathering organization" is expanded to include:

- A television or radio station holding a valid broadcast license issued by the Federal Trade Communications Commission;
- A news organization that broadcast over a multichannel video programming service comparable to programming provided by a television broadcast station including cable service, satellite broadcast and wireless cable service, and internet television;
- A web site published by or affiliated with any entity described above; and
- An online-only newspaper or magazine except those that solicit for services;
- Any entity that publishes news content to the general public or to members of a profession or occupation.

HB 151 SCS 1 requires a news-gathering organization to identify itself as one of the organizations defined above when requesting an accident report.

HB 151 SCS 1 removes the limit on the number accident reports redacted of all personal information that may be provided to an entity that publishes news content to the general public or to members of a profession or occupation. Reports may be provided to all other entities without redaction. Personal information is defined as the address, driver's license number, date of birth, and any other contact information including vehicle identification numbers (VINs) for each person and vehicle included in the report.

A new section of Subtitle 39 of KRS Chapter 304 is created regarding “compensation arrangements” as defined in 42 U.S.C.sec.1395nn and any payment resulting therefrom. It further defines “health care provider” or “provider” with language currently in the KRS. In summary, this federal law prohibits a physician from referring Medicare patients for designated health services to an entity with which the physician (or immediate family member) has a financial relationship, unless an exception applies and furthermore prohibits the designated health services entity from submitting claims to Medicare for those services resulting from a prohibited referral.

Any operator of a motor vehicle who is also the owner of the vehicle, without security on the vehicle, and found guilty of violating 42 U.S.C.sec.1395nn will be subject to a civil penalty of not less than \$1,000 no more than \$5,000 for each violation. Any physician or other person who pays or accepts payment in violation 42 U.S.C.sec.1395nn and fails to timely refund payment is subject to a civil penalty of not less than \$5,000 nor more than \$25,000 per arrangement or scheme.

HB 151 SCS 1 also expands KRS 311.597(9) to include this specific behavior as “dishonorable, unethical, or unprofessional conduct”. This subjects the physician to administrative sanctions by the State Board of Medical Licensure under KRS 311.595

HB 151 SCS 1 clarifies unethical conduct as failure to conform to the medical ethics of the American Medical Association or the code ethics of the American Osteopathic Association.

The fiscal impact of HB 151 SCS 1 on local governments will be minimum. Along with Department of Correction reimbursements discussed below, county offices/departments may be involved with providing information to the Department of Insurance as requested by the Commission.

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky’s 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

Class D and Class C felons:

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky’s 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky’s full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a D felon. Since the per diem pays for the

estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

When a court denies bail to a Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C felon, the per diem may be less than, equal to, or greater than the actual housing cost.

(Note: Class B felons are ineligible to be housed in local jails.)

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 151 SCS 1 retains all the provisions of HB 151 GA with the following changes:

- Expands the definition of personal information to include vehicle identification numbers (VINs);
- Defines "health care provider" or "provider";
- Expands the list of professions that can be held accountable for insurance fraud.

HB 151 GA retains all the provisions of HB 151 HCS 1. HB 151 GA does make a more all-encompassing statement regarding the unethical conduct as failure to conform to the medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association (**Section 6**)

HB 151 HCS 1 retains the provision of HB 151 as introduced and adds language regarding news-gathering organizations, the definition thereof, and the requirements that must be met by the requesting organization as well as the provider of the report(s).

Data Source(s): LRC Staff, Department of Corrections

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 3/6/19