

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 240 SCS . BR # 1159 DOC ID #: SB024040.1 00- 1159 – 5857v

BILL SPONSOR(S): Sen. W. Schroder AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to the dissemination of personally identifying information.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 525 to create a new felony of disseminating personally identifying information on the Internet about a minor.

AMENDMENT: Retain original provisions but make a Class A misdemeanor, remove family and household members of a minor from criminal provisions, and set monetary loss threshold levels; create civil cause of action; limit the liability of service providers.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|--|--|
| <input checked="" 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 type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) . | |
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STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$71.10. 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 \$32.78 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 to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

SB 240 establishes a criminal offense for disseminating personally identifying information about a minor, with the intent to intimidate, abuse, threaten, harass, or frighten the individual. The offense includes intentionally disseminating personally identifying information of a minor, and that the dissemination of information places the minor in reasonable fear of physical injury.

Dissemination, for this offense, means electronically publishing or posting. Personally identifying information is defined as information that can be used for identification, to include: names, identification number, date of birth, address, telephone number, email address, financial account information, health information, or school/employment locations.

Disseminating personally identifying information about a minor is established as a Class A misdemeanor, unless the dissemination results in monetary loss or physical injury to the minor.

If the dissemination results in a monetary loss of \$500 - \$10,000 to the minor, the minor's immediate family or household members, a Class D felony is imposed. If the loss is \$10,000-\$1,000,000, a Class C felony is imposed, and if the loss is \$1,000,000 or more, a Class B felony is imposed.

If the dissemination results in physical injury to the minor, it is a Class C felony. If the dissemination results in the minor's death, it is a Class B felony.

Civil remedies are also included.

The level of felony incurred would indicate the associated incarceration costs. An offender subject to housing at a state prison facility would cost \$71.10 per day.

For comparison purposes, a similar offense may be Class B misdemeanor Harassing Communications. The Department of Corrections currently has fifteen (15) offenders on supervision for Harassing Communications. AOC records indicate 629 Harassing Communications convictions in FY2018.

It is not known how many of these convictions may hold circumstances similar to those outlined by this bill.

It is not possible to predict how many offenses would be incurred under SB 240. While the legislation does provide for higher felony levels, overall, convictions under this legislation may be limited.

Overall, the impact from this bill would be expected to be minimal to moderate.

A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$2,595,061.12 to \$5,190,122.23
1 Class B Felon costs KY \$259,506.11 to \$519,012.22	100 Class B Felons cost KY \$25,950,611.17 to \$51,901,222.33
A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,297,530.56 to \$2,595,061.12
1 Class C Felon costs KY \$129,753.06 to \$259,506.11	100 Class C Felons cost KY \$12,975,305.58 to \$25,950,611.17
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$119,648.71 to \$598,243.56
1 Class D Felon costs KY \$11,965.87 to \$59,824.36	100 Class D Felons cost KY \$1,196,487.11 to \$5,982,435.57

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

The legislation establishes a Class A misdemeanor. Misdemeanors are subject to the jurisdiction and cost of the county.

Class D and community custody Class C offenders would serve their sentences at the county jail at a cost to the state of \$31.34 per day to the local jail. Housing state inmates in county jails provides an opportunity for jails in additional revenue through state inmate per diem.

Due to limited capacity, any number of additional offenders does impact local jail populations.

Overall, the number of offenders convicted of this offense would not be expected to be significant.

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

Corrections Impact from Amendments:

Under the Senate Committee Substitute, wording is removed concerning the release of information about the minor's family or household members.

The penalty level for the offense is modified under the Senate Committee Substitute, moving from the felony to the misdemeanor penalty range as a starting point. The amount of monetary loss is added to determine the level of felony penalty imposed. Civil remedies are added.

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: *Aitana Daily* 3/7/2019
Deputy Commissioner, Kentucky Department of Corrections Date