

# CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 122 Prefiled BR # 317 DOC ID #: xxxx

BILL SPONSOR(S): Rep. M. Cantrell AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to leave from employment for crime victims.

**SUMMARY OF LEGISLATION:** Amend KRS 337.415, relating to court-ordered appearances by employees, to prohibit employers from discharging or retaliating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with a crime; require an employee to give an employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave; require the employer to maintain confidentiality of records and communication with employee crime victim; create a penalty for failing to maintain confidentiality; define terms.

**AMENDMENT:** .

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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 \$75.91. Community Custody Class C and most Class D felons are housed in one of 77 full service jails for up to 5 years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$36.70 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included). *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

This legislation prohibits employers from discriminating or retaliating against employees taking leave for court proceedings when they are victims of crimes. The bill provides requirements such as adequate notice and provision of verification documents to the employer.

As used in this bill, the definition of victim would include any person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of a crime or an attempted crime. The definition of victim also includes immediate family for minor victims or those or who are incompetent, as well as the immediate family of homicide victims. Immediate family is defined.

Current statute (KRS 337.415(2)) prohibits termination of an employee for taking leave as required by law to appear in a court or administrative hearing. Subsection (3) of the legislation prohibiting termination, discrimination, or retaliation for crime victims taking leave to attend court or legal proceedings is specific to proceedings associated with the prosecution of a crime.

Attendance at Parole Board victim hearings does not appear to be applicable under Subsection (3) and may not be applicable under Subsection (2), as attendance at Parole Board victim hearings is not compulsory.

**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. Since the per diem is an estimated average cost of housing an inmate, the per diem may not be the actual housing cost for the jail. *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

The legislation creates a misdemeanor penalty for violation of employee confidentiality related to a victim's leave from work to attend legal proceedings. Violation of the confidentiality clause would be a Class B misdemeanor for a first offense and a Class A misdemeanor for subsequent offenses.

It is not possible to estimate the number of additional offenses this legislation would create, however, it is not likely to be significant. Further, the impact on incarceration at the county level as a result of this legislation is not expected to be substantial.

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$28,206.00 to \$114,391.00
1 Class A misdemeanor: \$2,820.60 to \$11,439.10	100 Class A misdemeanants: \$282,060.00 to \$1,143,910.00
A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$28,206.00
1 Class B misdemeanor: up to \$2,820.60	100 Class B misdemeanants: up to \$282,060.00

**Projected Corrections Impact from Amendments:**

**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:** Kathleen M. Keamy 1/9/2020  
Commissioner, Kentucky Department of Corrections Date