

# CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 178 GA BR # 1738 DOC ID #: xxxx

BILL SPONSOR(S): Sen. R. Alvarado AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to deceptive lawsuit advertising and solicitation practices.

SUMMARY OF LEGISLATION: Creates new sections of KRS Chapter 367 to regulate advertising for legal services.

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 seventy-seven (77) full service or regional jails for up to five (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)

**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)

This legislation regulates advertising for legal services.

Section 1 describes deceptive trade practices under KRS 367.170 if the advertisement soliciting clients for drug or medical device product liability suits fails to disclose that it is a paid advertisement for legal services; presents the advertisement as a medical, health, consumer alert, public service announcement, or similar announcement; displays a federal or state government logo suggesting affiliation or sponsorship of the agency; uses the word recall when the product has not been recalled by a government agency or manufacturer; fails to identify the sponsor of the advertisement; or fails to identify the attorney or law firm sponsoring the advertisement and whether that attorney or law firm will be performing or referring legal services.

An advertisement for legal services alleging injury from a prescription drug approved by the US Food and Drug Administration shall include a warning against stopping medication without consulting with a doctor and the dangers of doing so.

An advertisement for a lawsuit alleging injury from a prescription drug or medical device shall state the item remains approved by the FDA, unless the product has been recalled or withdrawn.

Any words or statements required by the legislation shall be presented clearly and conspicuously in the advertisement. Spoken and written disclosures shall be audible, legible, and displayed long enough for a viewer to fully read.

Section 2 prohibits, for the purpose of soliciting legal services, use, obtaining, selling, or disclosing protected health information without written authorization. A violation shall constitute an unfair trade practice defined in KRS 367.170.

In addition to any other remedy provided by law, a willful and knowing violation shall be a Class A misdemeanor, a \$1,000 fine, or both.

This prohibition is not applicable to the use or disclosure of protected health information in legal proceedings. The prohibition does not apply to referrals of unsolicited clients. The legislation does not limit the regulation of the practice of law, the rules of professional conduct, or discipline of legal licensure.

Currently the Department of Corrections has two (2) individuals either incarcerated or on supervision for offenses under KRS Chapter 367. AOC records indicate five (5) convictions for violations under KRS Chapter 367, though none of which are applicable to the current legislation.

Misdemeanors as established under this legislation would be subject to the jurisdiction and cost of the county.

Overall, the number of offenders expected to be generated under this legislation would likely be minimal.

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

**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:**  3/2/2020  
 Deputy Commissioner, Kentucky Department of Corrections      Date