

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 497 SCS . BR # 63 DOC ID #: HB049760.100 - 63 - 87965 - 7191v

BILL SPONSOR(S): Rep. K. Moser, J. Nemes, K. Banta, J. Calloway, C. Massey, R. Palumbo, M. Prunty

AMENDMENT SPONSOR(S): Rep. K. Moser

TITLE: AN ACT relating to persons convicted of crimes.

SUMMARY OF LEGISLATION: Create new sections of KRS Chapter 196 to require the Department of Corrections (DOC) to issue to released prisoners documentation of their criminal history, institutional history, other relevant information, and a certificate of employability; to require DOC to assist prisoners with writing resumes; create a Class B misdemeanor for a person who falsely claims to have a certificate of employability; create a new section of KRS Chapter 205 to require the Cabinet for Health and Family Services to prioritize provision of Medicaid benefits to prisoners 30 days prior to release upon receipt of a Medicaid Section 1115 waiver; amend KRS 205.2005 to exempt all individuals residing in Kentucky from the application of 21 USC sec. 862a(a).

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AMENDMENT: Retain original provisions and in Section 1, add requirement of prisoner's consent before release of information; add that criminal histories will be provided by the Administrative Office of the Courts at no cost to DOC; revise Section 1(1)(b)(2) to include all programming approved by the department regardless of the provider; revise Section 1(1)(b)(3) and (5) to limit the information DOC must provide to that information which it knows or can verify and to the extent its technology allows; in Section 1(5)(a), remove requirement that certificate revocation occurs upon placement under the jurisdiction of the department; in Section 1(11), add rate of recidivism to reporting requirement; in Section 2, specify the resume training shall be provided as part of a life skills program.

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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 checked="" 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 checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <i>Policy and operations.</i> | |
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STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$80.24. 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 \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).*

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

Under HB 497 state inmates would receive upon release a criminal history, record of major disciplinary violations, list of programs and educational courses completed, work record, and institutional work history.

A certificate of employability will be issued if the inmate earned credit for completing education, programs, or work while incarcerated; received an educational achievement prior to incarceration; received no major disciplinary violations in the year prior to release; and successfully completed a job skills assessment. Prisoners shall be advised of the opportunity to earn a certificate of employability. Job training for inmates shall include resume writing.

The certificate of employability is revoked upon a subsequent felony conviction. The inmate shall be notified of the revocation of the certificate and the revocation can be grieved. The revocation of the certificate does not impede the employer from relying on the information unless the employer knows the certificate is fraudulent.

- ◆ A misrepresentation of a certificate of employability is established as a Class B misdemeanor.

Waiver of civil liability for the Department is included. Immunity and liability for the employer is discussed.

If Medicaid coverage for inmates thirty (30) days prior to release is received, the Cabinet shall prioritize provision of such coverage. Pursuant to 21 U.S.C. sec. 862a(d)(1) allowing states to opt out, individuals residing in Kentucky shall be exempt from 21 U.S.C. sec. 862a(a), denial of assistance and benefits such as Temporary Assistance for Needy Families (TANIF) due to a felony drug related conviction.

- ◆ There will be additional workload for the Department under the legislation. Additional staffing, up to 5-6 positions, would be necessary to process this information for releases and issue and monitor revocation of the Certificates of Employability. The inmate would need to sign a waiver to allow the Department to release information that is otherwise privileged in the pre-sentence investigation.
- ◆ In addition to staffing, the largest cost for the Department would be modifications to the offender management system to track inmates' eligibility and issuance of the certificate, as well as provision of the other required documents like the criminal history, institutional history, and education/programming record.
- ◆ If not waived, there could be a cost for receiving a criminal background check from AOC.
- ◆ There may be a cost associated with provision of a job skills assessment, which is currently provided by the Department, Skills U, or the county jail.

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. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.*

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

The legislation establishes a Class B misdemeanor.

Misdemeanors are subject to the jurisdiction and cost of the county.

The number of convictions for this offense would be quite minimal, with little to no impact on local incarceration.

Cost to Incarcerate

A Class B misdemeanor is up to 90 days in jail.
1 Class B misdemeanant: up to \$3,361.94

10 Class B misdemeanants: up to \$33,619.42
100 Class B misdemeanants: up to \$336,194.25

PROJECTED CORRECTIONS IMPACT FROM AMENDMENTS:

House Committee Substitute: The House Committee Substitute adds language that the Department may work with the Transportation Cabinet to issue operator's licenses or personal identification cards to inmates upon release. The Committee Substitute also modifies language surrounding employer liability. Added is a requirement for the Department of Corrections to submit an annual report relating the number of certificates issued.

House Floor Amendment: The following modifications are included in the House Floor Amendment for documents to be provided to inmates upon release: adds a consent provision, facilitates the criminal background check through the Administrative Office of the Courts, clarifies inclusion of all approved programs provided to state inmates regardless of the facilitator, and adds a provision for pre-incarceration information related to education and employment to the extent known by the Department of Corrections. Modifications to the certificate of employability indicate revocation after receipt of a new felony conviction, removing the specification of whether the new felony is probated or receives incarceration. Tracking for recidivism is added to the required annual report. And resume writing is added to a life skills program rather than through job training.

The modifications under the House Floor Amendment assists the Department of Corrections in the facilitation of these documents for the offender population.

Senate Committee Substitute: The Senate Committee Substitute removes language specifying the provision of the criminal history by the Administrative Office of the Courts, leaving a broader instruction simply referencing the criminal history. The Committee Substitute also specifies life skills programs which include curriculum on employment.

**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

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, lengthens the term or incarceration, or impose new obligations on state or local governments.

APPROVED BY:  _____ **3/16/2021**
Chief of Staff, Kentucky Department of Corrections Date