

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 520 Introduced . BR # 1147 DOC ID #: xxxx

BILL SPONSOR(S): Rep. J. Blanton AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to private information of public officials and declaring an emergency.

SUMMARY OF LEGISLATION: Create a new section of KRS 61.870 to 61.884 exempting personally identifiable information of judges, prosecutors, and law enforcement officers from the Open Records Act; create a new section of KRS Chapter 525 to create a new offense of disseminating personally identifiable information of a law enforcement official; make the offense of disseminating personally identifiable information of a law enforcement official a Class A misdemeanor, unless disseminated recklessly, in which case it is a Class B misdemeanor; create a punishment of any dissemination of personally identifiable information performed intentionally or with the reason to believe the dissemination would result in serious physical injury to a law enforcement official or immediate family member as a Class C felony, or if the dissemination results in death of a law enforcement official or immediate family member a Class A felony; create a punishment if the resulting property damage is more than \$500 but less than \$10,000 as a Class D felony, more than \$10,000 but less than \$1,000,000 a class C felony, \$1,000,000 or more a Class B felony; create a new section of KRS Chapter 411 to permit qualified persons to file a civil action for dissemination of personally identifiable information of a law enforcement official or immediate family member; cite as the Fred Capps Act; EMERGENCY.

AMENDMENT: .

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 \$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)

The legislation adds a new section of KRS in Chapter 61. Under the legislation, identified public officials, their immediate family, or authorized agents may request an agency designate personally identifiable information as confidential, barring the information from being posted, published, or made public. Agencies are provided a set period of time to comply.

Personally identifiable information includes date of birth, social security number, address and related records, telephone numbers, email addresses, birth and marriage records, identification of minor children, school/child care, financial information, health and insurance information, and vehicle information.

This exemption will supplement existing exemptions from open records. This does not prevent agencies from using personally identifiable information as required to perform routine functions.

Under KRS Chapter 525, a person or data broker is guilty of dissemination of personally identifying information of a law enforcement official by knowingly, wantonly, or recklessly disseminating personally identifiable information of the law enforcement official or his or her immediate family. The dissemination must be taken in response to a decision/action or to influence/impact a future action of the official, placing the official or family member in fear of injury or harm to themselves or their property.

Dissemination of personally identifying information of a law enforcement official is established.

- ◆ As a Class A misdemeanor

- ◆ If performed recklessly, a Class B misdemeanor.
- ◆ If performed intentionally to promote or facilitate injury, or if there was reason to believe the dissemination of information would result in serious physical injury to the official or family member:
 - ◇ If results in serious physical injury, a Class C felony.
 - ◇ If results in death, a Class A felony.
- ◆ If results in monetary loss of \$500-\$10,000 is a Class D felony
- ◆ If results in monetary loss of \$10,000-\$1,000,000 is a Class C felony.
- ◆ If results in monetary loss of more than \$1,000,000 is a Class B felony.

Directions on removal of information and civil actions are provided. An emergency provision is applied.

Class A to non-community custody Class C offenders would be housed at a state prison at a cost of \$80.24 per day.

While the legislation provides for a range of offenses from misdemeanor to a Class A felony, the number of convictions for this offense would not be expected to be significant. Convictions for higher level felonies would correlate to higher incarceration costs.

Cost to Incarcerate

A Class A Felony sentence is 20 years or more.	10 Class A Felons cost KY a minimum of \$5,857,549.15
1 Class A Felon costs KY a minimum of \$585,754.92	100 Class A Felons cost KY a minimum of \$58,575,491.55
A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$2,928,774.58 to \$5,857,549.15
1 Class B Felon costs KY \$292,877.46 to \$585,754.92	100 Class B Felons cost KY \$29,287,745.77 to \$58,575,491.55
A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,464,387.29 to \$2,928,774.58
1 Class C Felon costs KY \$146,438.73 to \$292,877.46	100 Class C Felons cost KY \$14,643,872.89 to \$29,287,745.77
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$136,345.44 to \$681,727.22
1 Class D Felon costs KY \$13,634.54 to \$68,172.72	100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25

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)

Class D and those Class C offenders eligible for community custody would serve their sentence in a county jail at an average cost to incarcerate of \$37.35 per day, with \$31.34 daily reimbursement to the local detention center.

Housing state inmates in county jails does provide an opportunity for additional revenue for jails. However, any additional incarceration does have an impact on local jail capacity.

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

For comparison purposes, a similar offense may be Class B misdemeanor Harassing Communications. The Department of Corrections currently has twenty-one (21) offenders for Harassing Communications. It is not known how many of these convictions may hold circumstances similar to those outlined by this bill.

It is not possible to estimate how many convictions would occur under this legislation, but the overall impact to local incarceration would be expected to be minimal.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$33,619.42 to \$136,345.44
1 Class A misdemeanant: \$3,361.94 to \$13,634.54	100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45
A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$33,619.42
1 Class B misdemeanant: up to \$3,361.94	100 Class B misdemeanants: up to \$336,194.25

Projected Corrections Impact from Amendments:

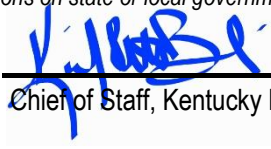
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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



Chief of Staff, Kentucky Department of Corrections

2/24/2021

Date