

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 553 HCS 1 BR # 1260 DOC ID #: HB055330.100 - 1260 - 86762 - 5994v

BILL SPONSOR(S): Rep. C. Massey AMENDMENT SPONSOR(S): Rep. C. Massey

TITLE: AN ACT relating to the Kentucky False Claims Act

**SUMMARY OF LEGISLATION:** Create new sections of KRS Chapter 15 to establish a False Claims Act with provisions that establish enhanced civil liability and penalties for committing fraud against the state; allow the Attorney General or a private citizen to bring a cause of action on behalf of the state to recover damages with a portion of any proceeds awarded being distributed to the person successfully bringing the action; grant the Attorney General enhanced investigatory authority; provide an increase in the range of civil payments that can be assessed in an administrative process from \$500 to \$5,000 to \$11,000 against fraudulent Medicaid providers; establish procedures, statutes of limitation and repose; establish civil protections for whistleblowers; amend various sections to conform.

**AMENDMENT:** .

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |   |  |
|---|--|
| <input 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 checked="" type="checkbox"/> Changes elements of offense for existing crime(s) |  |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) .                  |  |
- 

**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)

**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)

## PROJECTED CORRECTIONS IMPACT FROM AMENDMENTS:

House Committee Substitute: HB 553 addresses fraudulent claims under the Kentucky Medical Assistance program. The legislation creates several prohibitions in KRS Chapter 15 to prevent individuals from submitting a false or fraudulent claim or record, or otherwise defrauding the Commonwealth or the Kentucky Medical Assistance program of money or property. Civil penalties are outlined.

The Committee Substitute adds a Class D criminal penalty under KRS 341.990 for a person who knowingly makes a false statement or representation of fact to obtain or increase unemployment benefits for himself or another person due to the

COVID-19 pandemic. HB 553 modifies KRS 341.990 to add a Class D criminal offense for a person who knowingly makes a false statement or representation of fact to obtain or increase unemployment benefits for himself or other person due to the COVID-19 pandemic. The penalty shall include a minimum term of one (1) year imprisonment without the opportunity for community supervision or early release. The penalty would be in effect until June 2023, until all eligible unemployment claims are adjudicated, or the General Assembly otherwise takes action.

- ◇ For comparison, the Department currently has nine (9) individuals incarcerated and 147 individuals on supervision for violations under KRS 341.990. Two (2) of these are misdemeanor offenses, with the remainder felony offenses.
- ◇ AOC reports forty-seven (47) convictions in FY 20 for criminal offenses under KRS 341.990, thirty-three (33) at the felony level.
- ◇ As a Class D offender, offenders subject to this offense would serve their sentence in a county jail at a cost to the state of \$37.35 per day, with \$31.34 daily reimbursement to the local detention center.

The prohibition for community supervision or early release provides for a greater fiscal impact than a typical Class D felony conviction, especially as these offenses may otherwise receive community supervision. However, given the narrow scope of the proposed criminal penalty the number of convictions would not likely be significant.

**Cost to Incarcerate**

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

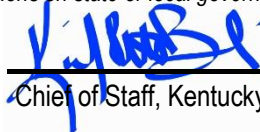
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

**3/1/2021**

Date