

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 574 SCS BR # 1258 DOC ID #: HB057440.100 - 1258 - 88039 - 7264v

BILL SPONSOR(S): Rep. J. Decker, J. Branscum, M. Imes, K. King, S. Sheldon, J. Tipton

AMENDMENT SPONSOR(S): Rep. J. Decker, Rep. P. Stevenson

TITLE: AN ACT relating to elections.

SUMMARY OF LEGISLATION: Amend various sections of KRS Chapters 48, 65, 83A, 116, 117, 118, 118A, 119, 120, 242, and 424 relating to paper ballots, voting equipment, voting systems, election education, voter registration, mail-in and in-person absentee voting and procedures, county board of election appointments, precinct election officer qualifications, consolidated precincts, mail-in absentee portal for mail-in ballot application requests, drop-box or receptacle for mail-in absentee ballots, voter assistance requirements prescribed, extension of time for reviewing and processing mail-in absentee ballots and procedures related, establishing recanvass thresholds, penalties prescribed for furnishing mail-in absentee ballots when not permissible, prohibiting tax dollars from being used to influence public opinion for ballot questions, and elections. repeal KRS 117.381 and 117.387, relating to electronic voting systems.

AMENDMENT: Retain the original provisions of the bill with following changes: remove Wednesday as a day for in-person absentee voting; add and amend KRS 39A.100 to remove the Governor's ability, upon recommendation of the Secretary of State, to declare by executive order a different manner for holding elections in an election area for which a state of emergency has been declared; add and amend KRS 118.176 to expand the class of candidates that can be challenged by a bona fide court action; add and amend KRS 118.367 to change the filing deadline for an independent, political organization, or political group candidate from the last Tuesday in January to April 1.

AMENDMENT: Add and amend KRS 116.035 to allow a person who is homeless and lacks an established and fixed nighttime residence of regular return an option to choose a fixed address of a non-traditional place of residence for purposes of voting.

AMENDMENT: Retain the provisions of the bill with the following changes: require the secure online mail-in absentee ballot request portal to open no more than 45 days before a primary or an election; amend KRS 132.017 to prohibit local, state, and federal tax dollars from being used to advocate, in partial terms, for or against any public question that appears on the ballot that relates to a tax rate by a district board of education; create a new section of KRS Chapter 120 to provide for an automatic recount in elections of constitutional officers, members of Congress, and members of the General Assembly when the vote margin is 0.5% or less; amend KRS 118.775 relating to membership in the General Assembly to conform; amend KRS 120.185 to provide for a recount in elections of the Governor and Lieutenant Governor, members of Congress, and members of the General Assembly when an automatic recount does not apply; amend KRS 120.195, 120.205, and 120.215 to establish procedures for any election contest involving the Governor and Lieutenant Governor and members of the General Assembly, including a mechanism to ensure the integrity of the election records and a chain of custody of election records if transported; provide who shall conduct a recount as part of an election contest and the procedures to be followed; provide the time frame for a newly ordered election; and amend KRS 117.295, 118.740, 120.017, and 120.155 to conform; APPROPRIATION.

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 checked="" 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)

HB 574 addresses several items related to voting.

Under Section 6, a new section of KRS Chapter 117 is added, prohibiting persons from knowingly collecting, gaining possession of, delivering, or exercising control over a mail-in absentee ballot, except for the following: the voter himself/herself, the election official, the postal service worker, a specified family member who is designated by the voter to assist in the mail-in absentee voting process, an individual who shares a residence with the voter and is so designated, or a caregiver who is designated by the voter to assist. The designated individuals shall not have been declared mentally disabled or convicted of an election law offense. The Class D felony provision is added under KRS 117.995.

KRS 117.995 holds penalties for several felony and misdemeanor offenses related to knowing and willful violations of election law. Under the existing Class D felony for county clerks or members of the county board of elections who knowingly and willfully violate voting laws under KRS 117, language is added or specified for applications for federal provisional absentee ballots and mail-in absentee ballots.

The Class A misdemeanor under this KRS which prohibits election officers from willfully failing to prepare a ballot or failing to allow a qualified voter to vote includes slight wording modification for ballot labels and voting machines.

Under KRS 119.115, the Class A misdemeanor and Class D felonies contain similar wording changes for regular elections rather than general elections, removal of ballot labels, and the addition of phrases such as voting equipment and voting system.

- ◆ The Department of Corrections records reflect zero (0) offenders incarcerated or on supervision for voting violations under KRS 117. There is one (1) individual in custody for violations of law under KRS 119.035 related to altering or destruction of registration records.
- ◆ AOC records indicate five (5) convictions in FY 20 for election law offenses under KRS 116-130, stemming from two (2) cases under KRS 119.035.

It is unknown how many additional felony convictions would be generated under this criminal offense; however, given the nature of the proposed modifications and historical low number of criminal voting-related convictions, the number of convictions related to these offenses would likely be minimal.

Accordingly, the impact to incarceration or supervision of felony offenders under the Department of Corrections would be very little to negligible.

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

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 felony offenders convicted under this legislation, if incarcerated, 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.

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

The number of offenders convicted under this legislation are expected to be minimal. Additionally, offenders convicted of voting violations may receive community supervision as an alternative to incarceration.

As such, there is minimal anticipated additional impact for local corrections based on this legislation.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$3,361.94 to \$13,634.54

10 Class A misdemeanants: \$33,619.42 to \$136,345.44
100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45

PROJECTED CORRECTIONS IMPACT FROM AMENDMENTS:

House Committee Substitute: There is no additional impact to the criminal penalties within the legislation under the House Committee Substitute.

House Floor Amendment: House Floor Amendment 2 addresses residency for homeless individuals. There is no impact to corrections under the Floor Amendment.

Senate Committee Substitute: There is no additional impact to the criminal penalties within the legislation under the Senate Committee Substitute

**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