

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # SB 20 Introduced BR # 36 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: .

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)

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)

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 that the item remains approved by the FDA, unless the product has been recalled or withdrawn.

Notices 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, 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 on supervision for offenses under KRS Chapter 367. AOC records indicate five (5) convictions in FY19, though none applicable to the current legislation, and zero (0) convictions in FY20 for violations under KRS Chapter 367.

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.

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

Projected Corrections Impact from Amendments:

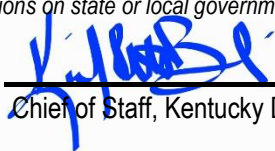
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

1/12/2021

Date