

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # SB 267 SCS 1 BR # 1766 DOC ID #: SB026740.100 - 1766 - 86682 - 5914

BILL SPONSOR(S): Sen. W. Schroder

AMENDMENT SPONSOR(S): Sen. W. Schroder

TITLE: AN ACT relating to the dissemination of personally identifying information.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 525 to define terms; criminalize the dissemination of personally identifying information; establish penalties; create a civil cause of action; limit the liability of service providers.

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 establishes a criminal offense for disseminating personally identifying information about another person with the intent to intimidate, abuse, threaten, harass, or frighten the individual. The offense includes intentionally disseminating personally identifying information of the person or his/her immediate family or household, and the dissemination of information causes reasonable fear of physical injury. This is applicable to electronic communications originating or accessible within the Commonwealth.

Dissemination, for this offense, means electronically publishing, posting, or disclosing information on an internet site or forum. Examples of personally identifying information are social security number or government identification number, date of birth, address, telephone number, email address, financial account information, health information, or school/employment locations.

Disseminating personally identifying information is established as a criminal offense:

- ◆ As a Class A misdemeanor;
- ◆ If the dissemination results in physical injury, a Class D felony;
- ◆ If the dissemination results in serious physical injury, a Class C felony; or
- ◆ If the dissemination results in death, a Class B felony.

There is a provision for civil action. This legislation would not apply to interactive computer service under 47 U.S. Code 230 (Protection for Private Blocking and Screening of Offensive Material) for content provided by another person.

The level of felony incurred would indicate the associated incarceration costs. An offender subject to housing at a state prison facility would cost \$80.24 per day.

For comparison purposes, a similar offense may be Class B misdemeanor Harassing Communications. The Department of Corrections currently has twenty-one (21) offenders on supervision for Harassing Communications. AOC records reflect 266 convictions for Harassing Communications in FY20.

It is not known how many of these convictions may hold circumstances similar to those outlined by this bill.

It is not possible to predict how many offenses would be incurred under this legislation. Overall, the impact from this bill would be expected to be minimal to moderate.

Cost to Incarcerate

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 community custody Class C offenders would serve their sentences at the 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.

Overall, this offense would not be expected to have a significant impact on local incarceration.

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:

Senate Committee Substitute: The Senate Committee Substitute adds wording clarifying a public internet site or public forum. There is no impact to incarceration stemming from 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:  **3/1/2021**
 Chief of Staff, Kentucky Department of Corrections Date