

# CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 301 GA 1 BR # 1130 DOC ID #: HB030110.100 - 1130 - XXXX

BILL SPONSOR(S): Rep. P. Flannery, J. Decker, J. Gooch Jr., C. Massey, B. McCool, S. Santoro, N. Tate

AMENDMENT SPONSOR(S): . . .

TITLE: AN ACT relating to elections.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 45A to require all costs and expenses related to election administration be paid for with public funds; prohibit a state governmental body employee from accepting anything of value to assist with election administration unless entered into as a lawful contract; create a new section of KRS Chapter 65 to require all costs and expenses related to election administration be paid for with public funds; prohibit a local governmental body employee from accepting anything of value to assist with election administration unless entered into as a lawful contract; require a local governmental body employee to disclose, in writing and within five days, to the Governor and the General Assembly any communication related to election laws and election administration from a federal executive branch agency; create a new section of KRS Chapter 117 to require any governmental body employee to disclose, in writing and within five days, to the Governor and the General Assembly any communication related to election laws and election administration from a federal executive branch agency; amend KRS 116.045 to prohibit a county clerk or local governmental body employee from accepting any private monetary funds to assist with voter registration activities unless accepted as part of a valid contract; amend KRS 117.015 to prohibit the State Board of Elections from accepting any private monetary funds for election administration unless accepted as part of a valid contract; amend KRS 117.995 to prescribe criminal penalties for local and state governmental employees who fail to properly disclose communication from a federal executive branch agency and employees who accept a private contribution or anything of value to assist with election administration unless part of a valid contract; amend KRS 48.630 to prohibit unbudgeted federal appropriations for expenditures related to election administration; and provide that the act may be cited as the "Stop Outside Influence Over Elections Act of 2022."

**AMENDMENT:** Amend Sections 1 and 2 to include a ten dollar threshold amount for money accepted by an employee or governmental body for sums received related to election administration; and technical correction.

**AMENDMENT:** Retain the provisions of the bill; remove references and penalties associated that require any governmental body employee to disclose to the Governor and the General Assembly any communication related to election laws and election administration from a federal executive branch agency.

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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 \$97.60. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$35.43 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)

This legislation pertaining to elections would have a negligible impact to incarceration or supervision of felony offenders under the Department of Corrections.

HB 301 establishes new offenses under KRS 117.995 for the following:

- ◆ Knowing and willful governmental solicitation, contribution, or donation to assist with election administration as a Class D felony for a first offense and a Class C felony for a second or subsequent offense. There is an exception for a lawful contract for goods and services.

- ◆ Knowing and willful failure to disclose federal agency communication related to election laws or administration as a violation and a \$5,000 fine for each communication. Disclosure is required within five (5) business days to the General Assembly and Governor.

Class C offenders may be eligible to serve their sentences at the county jail if qualifying for community custody, based on length of sentence remaining and custody classification.  
The Department of Corrections records reflect zero (0) offenders incarcerated or on supervision for voting violations under KRS 117.

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 very minimal.

**Cost to Incarcerate**

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,781,195.88 to \$3,562,391.76
1 Class C Felon costs KY \$178,119.59 to \$356,239.18	100 Class C Felons cost KY \$17,811,958.80 to \$35,623,917.60
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$129,318.61 to \$646,593.03
1 Class D Felon costs KY \$12,931.86 to \$64,659.30	100 Class D Felons cost KY \$1,293,186.06 to \$6,465,930.31

**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 \$35.43 cost to incarcerate for the Department of Corrections, including \$31.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail.\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

Due to the limited number of convictions and associated incarceration related to election law violation, the fiscal impact to local incarceration from the legislation would be very minimal.

As a Class D offender, offenders subject to this offense would serve their sentence in a county detention facility at a cost to the Department of \$35.43 per day, with \$31.34 daily reimbursement to the local detention center.

**PROJECTED IMPACT FROM AMENDMENTS:**

NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

House Committee Substitute:

The Committee Substitute removes the proposed KRS 117.995 violation of knowing and willful failure to disclose federal agency communication related to election laws or administration within five (5) business days. As a violation, removal of the proposed offense does not impact incarceration rates.

The proposed language pertaining to the offense is removed from KRS Chapters 65 and 117. KRS 48.630 is removed from the legislation.

Knowing and willful governmental solicitation, contribution, or donation to assist with election administration remains as a new Class D or Class C offense under the Committee Substitute.

House Floor Amendment:

The impact to corrections for HB 301 remains largely the same under the House Floor Amendment.

The House Floor Amendment places a dollar prohibition of \$10 on a private contribution, donation, or item of monetary value to assist with election administration. This prohibition is outside of lawful contracts for goods and services.

Placement of a dollar amount provides permission for some actions under the \$10 value that would have been prohibited under prior versions of the legislation. Overall, however, the threshold is not likely to impact the number of convictions that would be expected under the legislation.

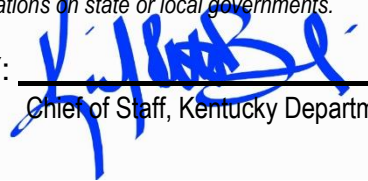
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

3/7/2022

Date