

# CORRECTIONS IMPACT STATEMENT

SESSION: 24RS BILL #: HB 45 HCS 1

BR #: 26

**BILL SPONSOR(S):** Rep. J. Hodgson, J. Bauman, J. Blanton, A. Bowling, K. Bratcher, J. Bray, E. Callaway, R. Duvall, D. Grossberg, T. Huff, D. Lewis, C. Massaroni, S. Rawlings, N. Tate

**AMENDMENT SPONSOR(S):**

**TITLE:** AN ACT relating to privacy protection.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 189 to define terms related to automated license plate readers; establish limitations on use and sale of data captured by automated license plate readers; create a new section of KRS Chapter 183 to define terms and establish limitations on the use of an unmanned aircraft system; create a new section of KRS Chapter 411 to establish a cause of action for the unauthorized use of an unmanned aircraft system; create a new section of KRS Chapter 413 to establish a statute of limitations for an action filed for the unauthorized use of an unmanned aircraft system; create a new section of KRS Chapter 411 to define terms and establish limitations on "deep fakes"; create a new section of KRS Chapter 413 to establish a statute of limitations for an action filed for the unlawful dissemination of a deep fake; create a new section of KRS Chapter 411 to define terms and establish limitations on the introduction of identification devices on or within the human body; create a new section of KRS Chapter 413 to establish a statute of limitations for an action filed for introduction of an identification device; create a new section of KRS Chapter 519 to establish a criminal penalty for illegally disseminating a deep fake; amend KRS 508.152, relating to the unlawful use of tracking devices, to include the installation of a tracking device on the person or property of another without their consent and exempt parental tracking of minors from the prohibition.

## AMENDMENT:

**HCS 1:** Retain original provisions, except provide that captured license plate data may be retained longer than 30 days if it is being used in a criminal or insurance investigation or has become subject to a preservation of evidence notification; provide that any recorded images or data captured by an ALPR may be made available to the National Insurance Crime Bureau or its successor organization; provide that the use of an unmanned aircraft system is not prohibited in the case of recreational or professional use if there is not intent to conduct surveillance on private property and there is no unauthorized use or publication of images of individuals or areas of private property, or in the case of an insurance company for purposes of underwriting a risk or investigating damage; amend the definition of "depicted individual" to remove the language that an individual is identifiable from information displayed in connection with the deep fake; provide that person means a natural person; provide that an unmanned aircraft system may be used by an insurance company or person acting on behalf of an insurance company for purposes of underwriting or investigating damage; change the criteria for being guilty of disseminating a deep fake; exclude from liability a deep fake made for purposes of entertainment; provide that this does not apply to radio or television broadcasting stations paid to broadcast material containing the deep fakes or if they clearly disclose the material is a deep fake; provide that this does not apply to published material that routinely carries news provided it clearly discloses the material is a deep fake.

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This  bill  amendment  committee substitute is expected to:

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|---|--|
| <input checked="" type="checkbox"/> Have the following Corrections impact                 | <input type="checkbox"/> 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 the 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 \$116.93. 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 jail is \$44.97 per day, which includes \$35.34 per diem, medical costs, and central office administrative costs (substance abuse treatment not included).\*

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

The legislation would likely have a minimal increase on incarceration costs by establishing a new Class D felony. The necessary appropriations associated with the costs estimated in this corrections impact statement require a continuation of current service funding for adult correctional institutions.

Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. A Class D Felony sentence is 1 to 5 years. One (1) Class D Felon costs KY \$16,414.05 to \$82,070.25.

Currently, there are zero (0) inmates in custody for crimes related to KRS 519, nor for crimes related to Harassment or Stalking 2nd Degree. There are 142 offenders on supervision for Harassment and 17 offenders on supervision for Stalking 2nd Degree.

New offenses would need to be added to the Kentucky Offender Management System however, this level of effort would fall under the current maintenance agreement.

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until the disposition of the case. The estimated impact will be based on the \$44.97 cost to incarcerate for the Department of Corrections, including \$35.34 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)

The legislation would likely have a minimal increase in incarceration costs by establishing a new Class D felony and expanding the definition of a Class A misdemeanor.

Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. A Class D Felony sentence is 1 to 5 years. One (1) Class D Felon costs KY \$16,414.05 to \$82,070.25.

Misdemeanor offenders are subject to the jurisdiction and cost of the county. A Class A misdemeanor is 90 days to 1 year in jail. One (1) Class A misdemeanant costs \$4,047.30 to \$16,414.05.

**PROJECTED IMPACT FROM AMENDMENTS:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

**HCS 1:** There would be no additional impact from the 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, lengthen the term of incarceration, or impose new obligations on state or local governments.

**APPROVED BY:** 

Chief of Staff, Kentucky Department of Corrections

**3/6/2024**  
Date