GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 132

AS ENACTED

TUESDAY, MARCH 29, 2016

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to jail operations.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS 61.870 TO 61.884 IS CREATED TO

4 READ AS FOLLOWS:

5 ***(1) A person shall not utilize a booking photograph or a photograph of an inmate***

6 ***taken pursuant to KRS 196.099 originally obtained from a public agency for a***

7 ***commercial purpose if:***

8 ***(a) The photograph will be placed in a publication or posted on a Web site; and***

9 ***(b) Removal of the photograph from the publication or Web site requires the***

10 ***payment of a fee or other consideration.***

11 ***(2) Any person who has requested the removal of a booking photograph or photo***

12 ***taken pursuant to KRS 196.099 of himself or herself:***

13 ***(a) Which was subsequently placed in a publication or posted on a Web site;***

14 ***and***

15 ***(b) Whose removal requires the payment of a fee or other consideration;***

16 ***shall have a right of action in Circuit Court by injunction or other appropriate***

17 ***order and may also recover costs and reasonable attorney's fees.***

18 ***(3) At the court's discretion, any person found to have violated this section in an***

19 ***action brought under subsection (2) of this section, may be liable for damages for***

20 ***each separate violation, in an amount not less than:***

21 ***(a) One hundred ($100) dollars a day for the first thirty (30) days;***

22 ***(b) Two hundred and fifty ($250) dollars a day for the subsequent thirty (30)***

23 ***days; and***

24 ***(c) Five hundred ($500) dollars a day for each day thereafter.***

25 ***If a violation is continued for more than one (1) day, each day upon which the***

26 ***violation occurs or is continued shall be considered and constitute a separate***

27 ***violation.***

1 ➔Section 2. KRS 61.870 is amended to read as follows:
2 As used in KRS ***61.870***~~[61.872]~~ to 61.884, unless the context requires otherwise:
3 (1) "Public agency" means:
4 (a) Every state or local government officer;
5 (b) Every state or local government department, division, bureau, board,
6 commission, and authority;
7 (c) Every state or local legislative board, commission, committee, and officer;
8 (d) Every county and city governing body, council, school district board, special
9 district board, and municipal corporation;
10 (e) Every state or local court or judicial agency;
11 (f) Every state or local government agency, including the policy-making board of
12 an institution of education, created by or pursuant to state or local statute,
13 executive order, ordinance, resolution, or other legislative act;
14 (g) Any body created by state or local authority in any branch of government;
15 (h) Any body which, within any fiscal year, derives at least twenty-five percent
16 (25%) of its funds expended by it in the Commonwealth of Kentucky from
17 state or local authority funds. However, any funds derived from a state or local
18 authority in compensation for goods or services that are provided by a contract
19 obtained through a public competitive procurement process shall not be
20 included in the determination of whether a body is a public agency under this
21 subsection;
22 (i) Any entity where the majority of its governing body is appointed by a public
23 agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of
24 this subsection; by a member or employee of such a public agency; or by any
25 combination thereof;
26 (j) Any board, commission, committee, subcommittee, ad hoc committee,
27 advisory committee, council, or agency, except for a committee of a hospital

1 medical staff, established, created, and controlled by a public agency as
2 defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this
3 subsection; and
4 (k) Any interagency body of two (2) or more public agencies where each public
5 agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of
6 this subsection;
7 (2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs,
8 diskettes, recordings, software, or other documentation regardless of physical form
9 or characteristics, which are prepared, owned, used, in the possession of or retained
10 by a public agency. "Public record" shall not include any records owned or
11 maintained by or for a body referred to in subsection (1)(h) of this section that are
12 not related to functions, activities, programs, or operations funded by state or local
13 authority;
14 (3) (a) "Software" means the program code which makes a computer system
15 function, but does not include that portion of the program code which contains
16 public records exempted from inspection as provided by KRS 61.878 or
17 specific addresses of files, passwords, access codes, user identifications, or
18 any other mechanism for controlling the security or restricting access to public
19 records in the public agency's computer system.
20 (b) "Software" consists of the operating system, application programs,
21 procedures, routines, and subroutines such as translators and utility programs,
22 but does not include that material which is prohibited from disclosure or
23 copying by a license agreement between a public agency and an outside entity
24 which supplied the material to the agency;
25 (4) (a) "Commercial purpose" means the direct or indirect use of any part of a public
26 record or records, in any form, for sale, resale, solicitation, rent, or lease of a
27 service, or any use by which the user expects a profit either through

1 commission, salary, or fee.
2 (b) "Commercial purpose" shall not include:
3 1. Publication or related use of a public record by a newspaper or
4 periodical;
5 2. Use of a public record by a radio or television station in its news or other
6 informational programs; or
7 3. Use of a public record in the preparation for prosecution or defense of
8 litigation, or claims settlement by the parties to such action, or the
9 attorneys representing the parties;
10 (5) "Official custodian" means the chief administrative officer or any other officer or
11 employee of a public agency who is responsible for the maintenance, care and
12 keeping of public records, regardless of whether such records are in his actual
13 personal custody and control;
14 (6) "Custodian" means the official custodian or any authorized person having personal
15 custody and control of public records;
16 (7) "Media" means the physical material in or on which records may be stored or
17 represented, and which may include, but is not limited to paper, microform, disks,
18 diskettes, optical disks, magnetic tapes, and cards;~~[and]~~
19 (8) "Mechanical processing" means any operation or other procedure which is
20 transacted on a machine, and which may include, but is not limited to a copier,
21 computer, recorder or tape processor, or other automated device***; and***
22 ***(9) "Booking photograph and photographic record of inmate" means a photograph***
23 ***or image of an individual generated by law enforcement for identification***
24 ***purposes when the individual is booked into a detention facility as defined in KRS***
25 ***520.010 or photograph and image of an inmate taken pursuant to KRS 196.099***.
26 ➔Section 3. KRS 441.127 is amended to read as follows:
27 (1) ~~[Unless precluded by written order of the sentencing court with regard to a specific~~

1 ~~inmate or inmates,~~]The jailer or correctional services department ***shall***[~~ may~~] grant
2 sentence credits to inmates confined in the county jail on conviction of
3 misdemeanor charges[~~ for labor performed without the jail in a community service~~
4 ~~program or within the jail for the maintenance of the jail or for the operation of jail~~
5 ~~services such as food service~~].
6 (2) Credit, if granted, shall be uniform and shall be based on the following:
7 (a) ***For labor performed without the jail in a community service program or***
8 ***within the jail for the maintenance of the jail or for the operation of jail***
9 ***services such as food service:***
10 ***1.*** For every eight (8) full hours of work, one (1) sentence credit shall be
11 earned; ***and***
12 ***2.***[~~(b)~~] For every five (5) of sentence credits earned, one (1) day of the
13 sentence to be served by the inmate shall be deducted;[~~ and~~]
14 ***(b) For successfully receiving a general equivalency diploma or a high school***
15 ***diploma, a service credit of thirty (30) days shall be earned; and***
16 (c) ***For good behavior, an amount not to exceed five (5) days shall be earned***
17 ***for each month served, to be determined by the jailer or chief executive of***
18 ***the jail for the conduct of the inmate.***
19 Sentence credits shall be deducted from the maximum expiration date of the
20 sentence.
21 (3) If an inmate violates the rules of the jail or engages in other misconduct the jailer or
22 correctional services department may withdraw sentence credits earned by the
23 inmate. The jailer or correctional services department shall maintain a list of
24 offenses and penalties for the ten (10) most common offenses and rule violations.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 13 APRIL 2016