



Department of Public Advocacy

Agency Update and Legislative Proposals



DEPARTMENT OF PUBLIC ADVOCACY
FISCAL YEAR 2019



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Reception for Members Not Reappointed
Today, 2:30 p.m. in Annex 125

Expungement Clinics



DPA would be happy to lead a clinic in your district

Review of #kyga19

Changes to **Increase** Reach and Costs of Criminal Justice System

New Crimes Added - 14

- Abortion for Discriminatory Reason
- Caller ID Spoofing
- Misuse of Voter Registration Roster
- Abortion for any reason (Post-Roe)
- Abortion With No Heartbeat Determination
- Abortion After Heartbeat Detected
- Sexual Crimes Against an Animal
- Strangulation, 1st Degree
- Strangulation, 2nd Degree
- Requesting Another to Blow Into Ignition Interlock
- Hiding Identity from Ignition Interlock Device
- Unlawful Practice of Midwifery
- Ignition Interlock Licensee Driving without an IID
- Assisting a Person in Making False Statement for Employer IID Exemption

Increased Penalties - 9

- Terroristic Threatening, 2nd Degree
- Man 2, Attempted Murder, Reckless Homicide as Violent Offender
- Insurance Fraud
- Boating While Intoxicated
- Abuse of a Corpse
- DUI (Suspension Periods)
- Drilling a Well Without a Permit
- Mining or Drilling After Notification of Violation
- False, Destroyed or Omitted Info Relating to Mining Report

Elements of Crime Expanded - 8

- Terroristic Threatening, 2nd Degree (Places of Worship)
- Criminal Trespass, 2nd Degree
- Manslaughter, 2nd Degree
- Terroristic Threatening, 2nd Degree (False Statements to Cause Evacuation of School)
- Trespass on Key Infrastructure Assets
- Promoting Contraband
- Unlawful Possession of Weapon on School Property
- Misrepresentation of an Assistance Animal

31
Changes
Total

Changes to **Reduce** Reach and Costs of Criminal Justice System

Crimes Eliminated - 0

Decreased Penalties - 0

Elements of Crime Narrowed - 3

- Carrying a Concealed Deadly Weapon
- Prohibited Acts by Sports Agents
- Bootlegging

Reduce Prison Population - 3

- Eliminate Restriction on Angel Initiative
- Authorize Parole Supervision Continuation Sanction
- Service Credit for Life Skills Programs

6
Changes
Total

Strangulation Revisited

June 27, 2019 – September 6, 2019

(DPA Cases Only; Not Including Jefferson County)

Charged **84** times

- 47** Held to Grand Jury or Indicted (15 with PH scheduled)
- 77** Charged with Strangulation, 1st Degree
- 21** Charged with at least one other felony
- 39** Fayette County

Response to Marijuana Trafficking Post

[REDACTED]

Replying to [@AdvocateDamon](#)

[REDACTED]

[REDACTED] We both know the defendant in your post isn't going to prison.

Assumption:

Client will plead guilty

(and receive probation or a non-prison sentence)

But what if he doesn't plead guilty?

What if he's innocent?

What if he has a valid legal defense?

What if he wants his day in court?

What if there's a story that
needs to be told?

THEN HE WILL GO TO PRISON, IF CONVICTED

0.33%

(1 out of 300)

DPA trial-eligible cases
end in a jury trial.

THE TRIAL PENALTY

Why so Few Trials? THE TRIAL PENALTY

- Multiple Overlapping Charges (consecutive sentences)
- Enhancements, including Subsequent Offenses and PFO
- “Extreme” Versions (i.e. Strangulation, 1st Degree)
- “Felony-Only” Offenses (Abuse of Corpse, Strangulation)

Going to Trial becomes too high a risk

An ACT relating to Juries

- Empowers juries, upon convicting a defendant of a Class D felony, to consider:
 - The nature and circumstances of the crime; and
 - The history and character of the convicted person

And reduce the Class D Felony to a Class A Misdemeanor if felony conviction is “unduly harsh”

- Gives juries the power to decline to increase a sentence under PFO

An ACT relating to Juries

The proposed bill:

- Lowers no sentence; and
- Eliminates no enhancements

It simply gives the power to citizens to say the criminal law is too harsh in a specific case for a specific defendant

DPA Organizational Bills

- Limit and Clarify permissible uses of KRS 31.185 (expert witness fund)
- Clarify that expert evaluation, consultation, and testimony is not “practice” of a profession
- Reinstate and Clarify DPA authority to provide representation of suspects (who have a right to counsel)
- Exempt DPA attorney/client files from Kentucky Open Records Act

(all filed in 2019 by Rep. Massey as HB 388, 389, 390)

Criminal Justice Forum

Is Reducing Kentucky's Prison Population a Worthy Objective
and a Realistic Goal?

October 23, 2019

11:00 a.m. – 3:30 p.m. (Lunch Included)

FREE, Registration Required

**Come see the
newly renovated
UK Law School!!**

Grand Courtroom
University of Kentucky College of Law

Sponsored by the Criminal Law Section
of the Kentucky Bar Association

<http://tiny.cc/CriminalJusticeForum19>