

CORRECTIONS IMPACT STATEMENT

SESSION: 15RS

BILL #: HB 413 SCS

BR #: 534

DOC ID#: HB041240.100 - 532 - 6266

BILL SPONSOR(S): Rep. R. Adkins, D. Graham

AMENDMENT SPONSOR(S): Sen. W. Westerfield

SUBJECT: Title Amendment from "AN ACT relating to reorganization" to "AN ACT relating to controlled substances and declaring an emergency."

SUMMARY OF LEGISLATION: Confirm Executive Order 2014-987, which reorganizes various offices in the Department for Libraries and Archives.

SCS- Replace original provisions with new sections that amend KRS 72.026 to increase the scope of mandatory coroner and medical examiner examinations and reporting in deaths involving a Schedule I controlled substance; amend KRS 100.982 to mirror federal law in regard to addicted persons and residential care facilities; amend KRS 196.288 to direct that a portion of recaptured savings from criminal justice reforms be directed to substance abuse treatment, prevention, and court-related activities; amend KRS 205.560 to amend the protocols for Medicaid provider credentialing relative to substance abuse treatment; create a new section of KRS Chapter 205 to require Medicaid to offer a broad array of substance abuse treatment resources; amend KRS 216B.020 to amend the certificate of need process relative to substance abuse treatment facilities; create a new section of KRS Chapter 216B to authorize substance abuse treatment outreach in overdose situations brought to a hospital ER; amend KRS 217.186 to allow the opiate overdose rescue medication naloxone to be prescribed to persons, agencies, or school employees capable of administering the medication in emergency situations; allow first responders to access and utilize the medication; allow pharmacists certified to do so to prescribe and dispense the medication; create a new section of KRS Chapter 218A to authorize a pilot project relating to data analysis of substance abuse trends; amend KRS 218A.050 to include acetylfentanyl in the list of schedule I controlled substances; create a new section of KRS Chapter 218A to prohibit state-funded substance abuse programs from discriminating against pregnant women; create a new section of KRS Chapter 218A to facilitate faith based substance abuse treatment; amend KRS 218A.500 to exempt from the drug paraphernalia statute needles and sharps declared to a peace officer prior to a search of the defendant's person; amend KRS 625.050 to provide a safe harbor protection for a pregnant addict who complies with prenatal care and substance abuse treatment instructions; include noncodified language encouraging the Cabinet for Health and Family Services to study certain opioid treatment initiatives, establish an evidence-based treatment task force relating to the disease of addiction, develop county and regional wraparound teams for opioid addiction, collaborate with medical schools and post-graduate training programs to include 10 hours of coursework on addiction for all medical professionals, increase continuing education units for medical and health professionals relating to the disease of addiction, and make legislative recommendations to the Interim Joint Committee on Health and Welfare; direct the Department of Criminal Justice Training to conduct regionalized heroin-specific in-service training for law enforcement officers by December 31, 2016; declare an EMERGENCY.

SCA (1/Title, W. Westerfield) - Make title amendment.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|---|--|
| <input 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 offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____ | |

STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$60.38. Most Class D felons are housed in one of 78 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$32.92 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

Projected Impact: NONE MINIMAL MODERATE SIGNIFICANT

Potential Impact: Section 3. Under this proposal, fifty percent (50%) of HB 463 savings shall be distributed to the Department of Corrections; a portion of those funds shall be distributed to provide or to contract for the provision of substance abuse treatment in county jails. Under this proposal an additional portion of the allocated fifty percent (50%) HB 463 savings shall also be utilized for the purchase of an FDA-approved extended release treatment for the prevention of relapse to opiate dependence. This statute currently allows for this treatment option and the Department does not want to be held to a specific treatment for offenders and must have flexibility to utilize the most effective and cost efficient resources available. The DOC relies on medical and mental health fields to determine which treatments are most successful through evidence based research which are ever evolving. **It also should be noted this bill proposal does not determine how the division of the 50% savings will be allocated.**

Section 10. Proposes to add acetylfentanyl to the list of schedule I controlled substances identified in KRS 218A.050. This has the potential to increase the number of individuals who may serve time on charges related to schedule I controlled substances and increase costs associated

with incarceration.

Section 12. Amends trafficking in a controlled substance in the third degree from a Class A misdemeanor for first offense to a Class D felony if the amount trafficked is greater than one hundred twenty (120) dosage units. Although it is not possible to determine how many new convictions this would generate, this has a potential to increase costs associated with incarceration.

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost \$120,145 to \$600,724.

1 Class D Felon costs Ky. \$12,014 to \$60,072.

100 Class D Felons cost \$1.2M to \$6M.

Section 14. This section would also permit a peace officer to ask if an individual has a sharp object before a search and if the individual complies allow that object to not be charged as drug paraphernalia or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object. This subsection would allow jail or prison inmates, offenders under probation or parole supervision, visitors, and/or vendors at secured facilities to avoid consequences for promoting dangerous contraband, which place staff and inmates at risk by simply admitting they have such an item. DOC personnel have the same authority and powers as peace officers while acting for the Department in any capacity. DOC would request an exemption from the effects of this proposal for prisoners of a correctional facility, probationers and parolees, or anyone on the grounds of a correctional facility or contract facility.

Section 19. Provides that any offender who has been convicted of a homicide or fetal homicide under KRS 507 or 507A where the victim of the offense died as a result of an overdose of a Schedule I controlled substance and who is not otherwise subject to the provisions of paragraphs (a), (b), or (c) of this subsection would be required to serve a 50% minimum service of the sentence imposed. Currently, any offender who has been convicted of homicide or fetal homicide under KRS 507 or 507A is subject to serving 85% of the sentence imposed, except for KRS 507A.040 (fetal homicide, 3rd degree, a Class C felony) and KRS 507A.050 (fetal homicide 4th degree, a Class D felony). Only ten offenders have been committed to DOC for either of these two crimes since they were enacted in 2004. Of these ten offenders, eight were considered for parole; however, only one of those eight who were considered actually received parole. The paroled offender served more than 50% of the imposed sentence prior to being paroled.

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. While the expense varies by jail, this estimated impact will be based on \$32.25 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Creates no new misdemeanor offenses.

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 or that impose new obligations on state or local governments.

APPROVED BY:

Commissioner, Kentucky Department of Corrections

Date