

CORRECTIONS IMPACT STATEMENT

SESSION: 15RS BILL #: SB 79 Introduced BR #: 805 DOC ID#: BR080500.100 - 805 - 1614

BILL SPONSOR(S): Sen. P. Clark AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to marijuana.

SUMMARY OF LEGISLATION: Amend KRS 218A.1422 to make the possession of two ounces of marijuana or less a violation punishable by a maximum fine of \$75; amend KRS 218A.1423 to make cultivation of five marijuana plants or less a Class B misdemeanor; name the Act the Kentucky Cannabis Freedom Act.

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 checked="" 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 79 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 2 Would elevate the quantity threshold for a Marijuana cultivation offense and reduce the penalty range. This bill proposal would change the elements of a Cultivating in Marijuana offense from five (5) or more plants to six (6) or more plants. The penalty range would remain a Class D felony for a first offense and a Class C felony for a subsequent offense. A marijuana cultivation offense of fewer than six (6) plants would be reduced to a Class B misdemeanor. Currently, 89 inmates are serving felony convictions for Cultivating In Marijuana 5 Plants or Greater 1st Offense. Elevating the quantity threshold to six (6) plants or more has the potential to reduce cost 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.

A Class C Felony sentence is 5 to 10 years. 10 Class C Felons cost \$1.1M to \$2.2M.

1 Class C Felon costs Ky. \$110,191 to \$220,382. 100 Class C Felons cost \$11M to \$22M.

Kentucky State Police does oppose this legislation due to the research that underlines the risks associated with the use of marijuana.

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.

Potential Impact: Section 1 Would add quantity thresholds to a Possession of Marijuana offense and reduce the penalty range. Currently Possession of Marijuana is a Class B misdemeanor punishable up to 45 days of incarceration. This bill proposal would reduce Possession of Marijuana from a Class B misdemeanor to a violation for two (2) ounces or less that is punishable by a maximum fine of seventy-five dollars (\$75). Possession of Marijuana greater than two (2) ounces would remain a Class B misdemeanor. Placing a quantity threshold on a Possession of Marijuana offense has the potential to reduce cost associated with Class B misdemeanors.

Kentucky State Police does oppose a change in quantity threshold; even possessing two ounces of marijuana can indicate trafficking.

Section 2 Would elevate the quantity threshold for a Marijuana cultivation offense and reduce the penalty range. This bill proposal would change the elements of a Cultivating in Marijuana offense from five (5) or more plants to six (6) or more plants. A marijuana cultivation offense of fewer than six (6) plants would be reduced to a Class B misdemeanor. Elevating the quantity threshold from five (5) plants or more to six (6) plants or more has the potential to increase cost associated with additional Class B misdemeanor convictions.

Section 2 Would reduce a Marijuana cultivation offense of fewer than six (6) plants from a Class A misdemeanor offense to a Class B misdemeanor offense. This has the potential to reduce the cost associated with shorter periods of incarceration.

Based on the \$32.25 per diem rate, the local impact is estimated as follows:

A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$28,703.
1 Class B misdemeanant: up to \$2,870.	100 Class B misdemeanants: up to \$287,025.
A Class A misdemeanor is 90 days to 1 year in jail	10 Class A misdemeanants: \$29,025 to 117,713.
1 Class A misdemeanant: \$2,903. to \$11,771.	100 Class A misdemeanants: \$290,250 to \$1.1M.

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