

AMENDED
CORRECTIONS IMPACT STATEMENT

SESSION: 16RS

BILL #: HB 13 Prefiled

BR #: 67

DOC ID#: BR006700.100 - 67 - 69

BILL SPONSOR(S): Rep. K. Flood, R. Smart **AMENDMENT SPONSOR(S):**

SUBJECT: AN ACT relating to driving under the influence and declaring an emergency.

SUMMARY OF LEGISLATION: Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.

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 \$61.09. Most Class D felons are housed in one of 77 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$32.51 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: The proposed change under this bill would expand the "look back" period from 5 to 10 years relating to driving under the influence. Under the current law, a person cannot be charged with DUI fourth offense if their first, second, and/or third offense occurred more than 5 years earlier. Under this proposal, a person could be charged with a DUI fourth offense if the prior offenses occurred within the last 10 years.

This bill has the potential to increase costs to the Department of Corrections by 51.4 million dollars. According to data provided by the AOC, from CY2005 through CY2010 there were 1,446 convictions for DUI 4th or subsequent offense and DUI 4th offense with Aggravator. Although it is not possible to project exactly how many new felony convictions would be generated from this legislation, however if the "look back" period was expanded from 5 to 10 years and those 1,446 DUI 4th offense convictions resulted in additional felony convictions that imposed a 3 year prison sentence, it could cost the Department \$51.4M (1,446 x \$35,598 = \$51.4M).

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost \$118,660 to \$593,310.

1 Class D Felon costs Ky. \$11,866 to \$59,331.

100 Class D Felons cost \$1.1M to \$5.9M.

Additional impacts associated with this bill:

Increases in Cost of Providing County Inmates Access to Medical Network-The Department is responsible for payment for county offenders to be afforded access to medical network. The cost is calculated as follows: \$0.055 times the County Jail Average Daily Population (ADP) for the month not to exceed \$165,958 based on a negotiated ADP of 8,318. Any increases in population beyond these parameters would require DOC to negotiate to amend the contract for the corresponding increased cost.

Increase in the Cost of Housing County Offenders for Medical Treatment – KRS 441.560 - Jails may request that a county offender be admitted to a DOC institution for treatment of catastrophic medical conditions. The Department assumes the cost of housing and medical care. In FY15 \$627,985 were expended for these admissions.

Acceleration in Depletion of Catastrophic Medical Fund – KRS 441.045 -The Department’s Catastrophic Medical fund is utilized to reimburse jails for medical bills for county offenders which exceed \$1,000. Once this fund is depleted, county jails are responsible for these medical bills.

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 \$31.92 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Projected Impact: NONE MINIMAL MODERATE SIGNIFICANT

Potential Impact: This bill proposal is expected to increase the misdemeanor population and increase costs associated with longer periods of incarceration.

According to data provided by the LRC between January 1, 2015 and December 22, 2015 in Kentucky there were 15,682 convictions for DUI first offense, 3,300 convictions for DUI second offense and 704 DUI third offense convictions. Although it is not possible to project exactly how many new DUI convictions would be generated, however if the “look back” period was expanded from 5 to 10 years it is reasonable to expect a significant increase in the misdemeanor population and increase costs associated with incarceration based on the data provided above.

A Class A misdemeanor sentence is 90 days to 1 year in jail.

A Class B misdemeanor is up to 90 days in jail.

1 Class A misdemeanor: \$2,873. to \$11,650.

1 Class B misdemeanor: up to \$2,873.

10 Class A misdemeanants: \$28,728 to 116,500.

10 Class B misdemeanants: up to \$28,728.

100 Class A misdemeanants: \$287,300 to \$1.1M.

100 Class B misdemeanants: up to \$287,300.

Additional local impacts associated with this bill proposal:

Increase in Fees Associated with Incarceration

An increase in the number of non-state inmates in jails would increase housing costs, and other costs such as booking, court transportation, healthcare costs etc.

Increase in Medical Costs -Catastrophic Medical Payments -KRS 441.045

The Department is responsible for payments for medical bills for non-state inmates which exceed \$1,000. This fund is a set amount that has been insufficient to cover all bills submitted each year. Once this fund is depleted, jails are responsible for payment of medical bills. An increase in the number of non-state inmates could increase cost of providing medical care to jails.

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 LRC

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