

CORRECTIONS IMPACT STATEMENT

SESSION: 16RS

BILL #: HB 544

BR #: 1737

DOC ID#:

BILL SPONSOR(S): Rep. Bell **AMENDMENT SPONSOR(S):**

SUBJECT: AN ACT relating to assault.

SUMMARY OF LEGISLATION: Amend KRS 508.020 and 508.025 to adjust penalty levels; create new section of KRS Chapter 508 to create enhancement mechanism for assault offenses; amend various sections to conform; repeal KRS 508.032.

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 checked="" 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 \$61.09. 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 \$32.51 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
\$0-\$1,000,000 \$1,000,000- \$5,000,000 \$5,000,000- Up

Potential Impact: The proposed legislation has multiple impacts due to changes made to KRS.

Section 1: Changes the definition of Assault 2nd to eliminate "intentionally causing serious physical injury to another person." This will decrease the number of people charged with Assault 2nd (a Class C felony).

Section 2: Eliminates the specific offense of committing Assault against peace officers, correctional officers, social workers, EMTs, etc. This section also creates a new definition of what qualifies as Assault 3rd. The new sub-section reads as intentionally causing serious physical injury (which is Assault 2nd under the current law) will now be Assault 3rd. Subsections (b), (c) and (d) appear to be new definitions. This would increase the number of people eligible to be charged with Assault 3rd (a Class D felony).

Section 3: Anyone convicted of Assault 2nd or Assault 3rd would be sentenced for the next highest degree than the offense they were convicted of. Persons convicted of Assault 2nd (a Class C felony; 5-10 yrs) would be sentenced as though they were convicted of a Class B felony (10-20 yrs). Persons convicted of Assault 3rd (a Class D felony; 1-5 yrs) will now be sentenced as though they were convicted of a Class C felony (5-10 yrs.). Committing assault against peace officers, correctional officers, social workers, EMTs, etc. (which is Assault 3rd under the current law) would be prosecuted as Assault 4th. Assault 4th is usually a Class A misdemeanor. However, this section specifies that anyone convicted of assaulting a peace officer, etc. will receive a Class D sentence. The crime the person is charged with would change, but the sentence would remain the same as it is under the current law. Section 6 of this bill eliminates the offense of assault on a family member (KRS 508.032) and Section 3 makes that offense Assault 4th, but the Defendant would receive a Class D felony sentence. This would increase the number of people eligible to receive Class D sentences because under the current law, KRS 508.032 makes it a Class D felony if the person commits a third or subsequent assault of a family member within a 5 year period. This bill would make all family member assaults (even the first and second assaults) a Class D felony.

Section 4: This section changes the definition of a "violent offender" to include anyone convicted of assaulting a family member. This would increase the length of time those offenders have to remain in prison because they would have to serve 85% of their sentence before being eligible for parole.

In 2015 there were 261 offenders that started a sentence for Assault 2nd degree of one form or another. The sentence the offenders could be sentenced to (a class B felony) would increase from 5-10 years to 10-20 years. If we used the average

sentence of 12.5 years that 261 offenders would cost the Department of Corrections on average of \$87,296,148 a year or \$1,091,201,850 for 12.5 years. At the current felony level (Class C felony) the average sentence is 7.5 years. That is an average of 43,648,074 for 261 offenders per year, or \$327,360,555 for 7.5 years. A difference of \$763,841,295.

There would be additional increases in costs for the Assault 4th Class D offenders as well as the Assault 3rd Class C offenders.

A Class B Felony sentence is 10 to 20 years

10 Class B Felons cost \$2.2M to \$4.4M.

1 Class B Felon costs Ky. \$222,979 to \$445,957.

100 Class B Felons cost \$22.2M to \$44.5M.

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: The proposed legislation would reduce the number of offenders that may serve time for a Class A misdemeanor while increasing the number of individuals who may be placed in local facilities as a part of the Class D program.

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