

**\*AMENDED\***  
**CORRECTIONS IMPACT STATEMENT**

**SESSION: 16RS**      **BILL #: HB 66**    Introduced      **BR #: 234**      **DOC ID#: BR023400.100 - 234 - 720**

**BILL SPONSOR(S):** Rep. J. Shell      **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to synthetic drugs.

**SUMMARY OF LEGISLATION:** Amend KRS 218A.1412 to include synthetic drugs in the offense of trafficking in a controlled substance in the first degree; amend KRS 218A.1415 to include synthetic drugs in the offense of possession of a controlled substance in the first degree; amend KRS 218A.1416 to remove reference to synthetic drugs; amend KRS 218A.1401 to include synthetic drugs in the offense of selling a controlled substance to a minor; amend 218A.410 to allow for the forfeiture of real property used to commit or facilitate offenses involving synthetic drugs; amend KRS 530.064 to include synthetic drugs in the offense of unlawful transaction with a minor in the first degree; amend KRS 530.065 to remove reference to synthetic drugs; repeal KRS 218A.1430, relating to synthetic drugs.

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**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 type="checkbox"/> Decreases penalty for existing crime(s) |
| <input checked="" 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: This bill is expected to increase the felon population; increase cost associated with longer periods of incarceration and has the potential to increase the number of offenders in jails serving on misdemeanor offenses and DOC costs associated with county inmates in jail.

**Section 1 has the potential to increase costs to the Department of Corrections by 86.7 million dollars.** Section 1 of this bill proposes to upgrade trafficking 4 or more grams of synthetic drugs to a Class C felony penalty for the first offense and a Class B felony penalty for all subsequent offenses. If the quantity trafficked is less than 4 grams of synthetic drugs, it would result in a Class D felony penalty for the first offense and a Class C felony penalty for all subsequent offenses. Under the current law, trafficking in a synthetic drug is a Class A Misdemeanor for the first offense and a Class D Felony for all subsequent offenses. According to data provided by LRC, during the last three (3) calendar years, there were approximately 556 misdemeanor charges for trafficking in synthetic drugs. Under this bill, those 556 charges would be increased to Class D Felonies, if the amount is less than 4 grams, or a Class C Felony for anything greater. A Class D felony supports a sentence term of one to five years. The cost of housing one Class D felony offender for 3 years is \$35,598 multiplied by the potential of 556 new class D felony inmates could result in a cost of \$19.7M. A Class C felony supports a sentence term of five to ten years. The cost of housing one Class C felony offender for 7 years is \$156,085 multiplied by the potential of 556 new class C felony inmates could result in a cost of \$86.7M.

**Section 2 has the potential to increase costs to the Department of Corrections by \$51.5 million dollars.** Section 2 of this bill proposes to modify possession of a controlled substance to include synthetic drugs. This would increase the penalty from a Class B Misdemeanor to a Class D felony, with maximum term of incarceration of one to three years. According to data provided by the LRC, during the last three (3) calendar years, there were approximately 2,174 charges for possession of synthetic drugs. The cost of housing one Class D felony offender for 2 years is \$23,732 multiplied by the potential of 2,174 new Class D felony inmates could result in a cost of \$51.5M.

Section 4 expands the definition of selling controlled substances to a minor to include synthetic drugs. Selling controlled substances to a minor is a Class C felony for the first offense, and a Class B felony for each subsequent offense, unless a more severe penalty is applicable. It is reasonable to expect that this bill will increase the number of people charged with selling controlled substances to a minor; and has the potential to increase the felon population and costs associated with incarceration.

Sections 6 and 7 of this bill would strengthen penalties for unlawful transaction with a minor involving synthetic drugs. Under the proposed legislation, engaging a minor in an activity involving synthetic drugs will result in unlawful transaction with a minor in the first degree offense. Illegal activity with a minor involving synthetic drugs would no longer be considered an unlawful transaction in the second degree. The penalty will increase from a Class D felony to a Class C felony if the minor is less than 18, Class B if the minor is less than 16, and a Class A felony if the minor is physically injured in the commencement of the crime. It is not possible to calculate how significant the impact of this section will be at this time (current data does not specify if the charge involved synthetic drugs).

A Class D Felony sentence is 1 to 5 years.

A Class C Felony sentence is 5 to 10 years.

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

1 Class C Felon costs Ky. \$111,489 to \$222,979.

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

10 Class C Felons cost \$1.1M to \$2.2M.

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

100 Class C Felons cost \$11.1M to \$22.2M.

A Class B Felony sentence is 10 to 20 years.

A Class A Felony sentence is 20 years or more.

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

1 Class A Felon costs Ky. a minimum of \$445,957.

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

10 Class A Felons cost a minimum of \$4.4M

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

100 Class A Felons cost a minimum of \$44.5M.

**Additional potential costs associated with this bill proposal:**

**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 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 is expected to increase costs associated with a longer term of incarceration. Any increase in the number of county offenders in county jails would increase housing costs, and other costs such as booking, court transportation, healthcare costs etc.

Section 3 expands the definition of possession of a controlled substance in the second degree to include synthetic drugs. The current penalty for possession of a controlled substance in the second degree is a Class B misdemeanor, this bill proposes to elevate the penalty to a Class A misdemeanor.

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:**

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Commissioner, Kentucky Department of Corrections

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Date