

# CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: HB 135 Introduced

BR #: 892

DOC ID#: BR089200.100 - 892 - XXXX

BILL SPONSOR(S): Rep. Morgan

AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to animal torture.

**SUMMARY OF LEGISLATION:** Amend KRS 525.135 to redefine "torture" to include deliberate neglect or physical abuse that results in, the death of or serious physical injury to a dog or cat; provide for forfeiture of ownership of the dog or cat upon conviction or plea; prohibit future ownership of a dog or cat for five years for a first offense and life for a second or subsequent offense; require forfeited dogs and cats be offered to animal rescue organizations or given to county animal shelters.

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 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 \$66.82. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.41 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 Cost:

This legislation redefines animal torture to include neglect and physical abuse that results in death or serious physical injury.

Under current legislation, Torture of a Dog or Cat 1<sup>st</sup> Offense is a Class A misdemeanor. This legislation proposes raising the penalty to a Class D felony. Additionally, if a first offense results in the death of or serious physical injury to a dog or cat, the mandatory minimum term of Class D felony imprisonment shall be five (5) years, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

This legislation proposes raising the penalty of Torture of a Dog or Cat 2<sup>nd</sup> or subsequent offense from a Class D felony to a Class C felony. The penalty shall also be a Class C felony if the offense 1) involves physical abuse that results in the death of or serious physical injury to a dog or cat and is committed in the presence of a minor, 2) is committed by an employee or agent of an animal shelter, or 3) is committed by an employee or business that works with dogs or cats commercially. The offense would have a mandatory minimum term of imprisonment of ten (10) years, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

Actions against more than one animal shall be charged as individual counts and individuals convicted of more than one offense shall be subject to consecutive sentences.

Data from AOC shows eleven (11) cases of felony Torture of Dog or Cat with Serious Physical Injury or Death and ten (10) cases of misdemeanor Torture of a Dog or Cat 1<sup>st</sup> Offense in CY2014-2016.

Currently the Department has four (4) offenders on supervision for misdemeanor Torture of a Dog or Cat 1<sup>st</sup> Offense. Under the proposed legislation, offenders convicted of Torture of a Dog or Cat 1<sup>st</sup> Offense would be subject to a Class D felony penalty, and if incarcerated, subject to state incarceration costs of \$11,464.07 per year per inmate.

The Department currently has one (1) offender incarcerated for felony Torture of a Dog or Cat with Serious Physical Injury or Death. Under the proposed legislation, an offender convicted of felony Torture of a Dog or Cat with Serious Physical Injury or Death would not be eligible for community supervision. Five (5) years of incarceration would cost \$57,320.35 for one (1) offender.

Currently the Department has six (6) offenders incarcerated for Class D Torture of a Dog or Cat 2<sup>nd</sup> Offense. Under the proposed legislation, offenders convicted of Torture of a Dog or Cat 2<sup>nd</sup> or subsequent Offense would be subject to Class C felonies. These offenders, in addition to certain 1<sup>st</sup> Offense offenders, would be subject to a mandatory minimum term of imprisonment of ten (10) years which is not eligible for community supervision. A Class C offender would cost the Department \$24,390.98 per year or \$243,909.80 for a ten (10) year incarceration sentence.

This legislation would have increased incarceration costs; however, the number of offenders expected to be convicted under these offenses are such that the expected impact to the Department would not be significant.

A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost \$114,640 to \$573,200
1 Class D Felon costs KY \$11,464 to \$57,320	100 Class D Felons cost \$1.146M to \$5.7M
A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost \$1.2M to \$2.4M
1 Class C Felon costs KY \$121,955 to \$243,910	100 Class C Felons cost \$12.2M to \$24.4M

**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 \$31.34 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:

Under current legislation, Torture of a Dog or Cat 1<sup>st</sup> Offense is a Class A misdemeanor. This legislation proposes raising the penalty to a Class D felony. As a felon, the cost would be incurred by the state, relieving the county jail of the cost. These offenders would likely remain incarcerated at jail facilities as a state inmate, however. Under the proposed legislation, there are some current Class D offenders who would be subject to increased penalties as a Class C offense. These offenders would no longer qualify for housing at a jail facility, which would be a loss of revenue to the county.

The number of offenders convicted under these offenses would likely be low; therefore, the expected impact to the county jails would not be significant.

A Class A misdemeanor is 90 days to 1 year in jail	10 Class A misdemeanants: \$28,270 to \$114,640
1 Class A misdemeanor: \$2,827 to \$11,464	100 Class A misdemeanants: \$282,700 to \$1,146,400

**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