

# CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: HB 221 Introduced

BR #: 1032

DOC ID#: BR103200.100 - 1032 - XXXX

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

**SUBJECT:** AN ACT relating to driving under the influence.

**SUMMARY OF LEGISLATION:** Amend KRS 189A.010 to provide that DUI offenses with aggravating circumstances remain on the record and constitute prior offenses regardless of when they were committed; provide that the section, which includes the ten-year window for counting prior offenses, shall be retroactive; amend KRS 189A.070 to conform.

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 checked="" type="checkbox"/> Increases staff time or positions      | <input type="checkbox"/> Reduces staff time or positions         |
| <input 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 Impact:

The proposed legislation defines the prior DUI offenses as convictions for offenses committed within a ten year period or offenses committed with aggravating circumstances as defined by statute. The proposed requirements are retroactive.

According to AOC, in CY2016 there were 68 Class D felony DUI convictions for DUI 4<sup>th</sup> or Subsequent Offense and 75 convictions of Class D DUI 4<sup>th</sup> Offense with Aggravator. Currently, DOC has 100 offenders incarcerated for DUI convictions for DUI 4<sup>th</sup> or Subsequent Offense and 53 offenders incarcerated on Class D DUI 4<sup>th</sup> Offense with Aggravator. The annual cost to incarcerate a Class D felon is \$11,464.07.

Under this legislation, individuals could receive a DUI 4<sup>th</sup> Offense and be convicted of a Class D felony due to a prior DUI offense within a 10 year period or aggravator, regardless of timeframe. Aggravators include operating a motor vehicle in excess of 30 miles per hour above the speed limit; operating a motor vehicle in the wrong direction on a limited access highway; causing a accident resulting in death or serious physical injury; having a blood alcohol level of .15 or more; refusing to submit to blood, breath or urine testing; and operating a motor vehicle which is transporting a passenger under the age of 12.

The exact numbers cannot be calculated as to how many additional felony convictions would be realized under this legislation.

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

**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:

According to AOC, in CY2016 there were 480 convictions for Class A misdemeanor DUI 3<sup>rd</sup> Offense and 379 DUI 3<sup>rd</sup> Offense with Aggravators.

In addition, there were 11,106 DUI 1<sup>st</sup> Offense, 4,056 1<sup>st</sup> Offense with Aggravator, 2,123 DUI 2<sup>nd</sup> Offense, and 1,475 2<sup>nd</sup> Offense with Aggravators as Class B misdemeanor cases. There were an additional 378 convictions for DUI Under 21 Years of Age.

Due to the increase in the number of persons who could be convicted of DUI with prior offenses or aggravates regardless of time, there could be an increase in the number of persons incarcerated and for a longer period of time in local facilities on DUI subsequent offenses.

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

10 Class A misdemeanants: \$28,270 to \$114,640

1 Class A misdemeanant: \$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:**

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 Commissioner, Kentucky Department of Corrections

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 Date