

# CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: HB 361 Introduced

BR #: 1621

DOC ID#: BR162100.100 - 1621 - XXXX

**BILL SPONSOR(S):** Rep. D. Keene      **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to the prevention of child abuse and exploitation.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 211 to define "criminal offense against a minor," "sex crime," "violent offender," and "youth camp"; create a new section of KRS Chapter 211 to specify the application of Sections 1 to 4 of this Act; create a new section of KRS Chapter 211 to prohibit youth camps from employing, contracting, or utilizing as a volunteer a person who committed a sex crime, is a violent offender, or has abused or neglected a child, and to require criminal background checks; create a new section of KRS Chapter 211 to delineate punishments for employing a prohibited individual; create a new section of KRS Chapter 199 to allow a parent or guardian to request a background check of child abuse and neglect records; amend KRS 160.380 to require superintendents to run a name-based background check of child abuse and neglect records for employees; amend KRS 17.545 to prohibit registered sex offenders from being on a publicly owned playground without the playground owner's or managing authority's advance written permission; amend KRS 17.500 to include promoting human trafficking involving commercial sexual activity as a criminal offense against a minor if the victim is under 18; amend KRS 156.095 to require public schools to display the National Human Trafficking Reporting Hotline; amend KRS 156.070 to require the State Board of Education to address matters pertaining to the health and well-being of schoolchildren; create a new section of KRS Chapter 620 to require the cabinet to notify the school of a child whose custody has been granted to the cabinet as a result of dependency, neglect, or abuse of the persons authorized to contact the child at school; amend KRS 413.249 to extend the statute of limitations for actions involving childhood sexual abuse or childhood sexual assault from 5 years to 10; amend KRS 510.020 to state that a 16 or 17 year old victim is incapable of consent when the actor is at least 10 years older than the victim; amend KRS 510.030 to add lack of knowledge of the victim's age being 16 or 17 when the offender was at least ten years older at the time of the offense as a defense; amend KRS 510.060 to add to rape in the third degree being at least 10 years older than a victim who is 16 or 17; amend KRS 510.090 to add to sodomy in the third degree being at least 10 years older than a victim who is 16 or 17; amend KRS 15.232 to give the Attorney General concurrent jurisdiction in human trafficking prosecutions; amend KRS 176.415 to require the Department of Highways to post the hotline number of the National Human Trafficking Resource Center in all rest areas; amend KRS 600.020 to add "take into protective custody" to the definition of "take into custody"; amend KRS 610.190 to allow a peace officer to take a child into protective custody under various circumstances; amend KRS 610.200 to allow peace officers to file a status offense complaint; amend KRS 610.220 to prohibit the placement of nonoffenders in secure or nonsecure detention; amend KRS 630.030 to allow circumstances under which a child may be taken into protective custody; amend KRS 15A.068 to require a person or organization operating a facility to file a report, notify the child's attorney, and petition for a transfer of custody; create a new section of KRS Chapter 531 to prohibit the distribution of any material that portrays child pornography or a sexual performance by a minor; amend KRS 500.080 to add specific injuries to a child under 12 to the definition of "serious physical injury"; repeal KRS 610.012; provide that the act may be cited as the Child Protection Act of 2017.

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 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 legislation defines several offenses as criminal offenses against a minor. The legislation prohibits youth camps from employing a person convicted of a criminal offense against a minor, a sex offender, a violent offender, or an individual found to have abused or neglected a child. The legislation speaks to several additional areas of educational responsibilities, notification requirements, and background checks for agencies providing services to children.

The legislation outlines custody of evidence in criminal or civil proceedings related to child pornography or sexual performance by a minor and extends the timeframe for civil actions from childhood sexual abuse or assault.

The bill adds to the definition of serious physical injury, listing several injuries for a child 12 years of age or younger which would be included in determining serious physical injury as an element of a criminal offense. This could occur in some offenses being subject to increased penalty due to the designation of serious physical injury. It is not possible to estimate the number or cost impact this may have on corrections.

The legislation also restricts sex offenders from publicly owned playgrounds without advanced written permission. If a sex offender registrant failed to comply with this added requirement, possible costs incurred to the Department could include incarceration, violation proceedings, and costs associated with Probation and Parole Officers who monitor sex offender caseloads. The Department of Corrections Division of Probation and Parole is not responsible for monitoring violations of the sex offender registry. The overall impact under this section of the bill is expected to be minimal.

A person is deemed incapable of consent if the victim is 16 or 17 years old and the perpetrator is at least 10 years older than the victim at the time of the offense. This provision is added to the crime of Rape in the 3<sup>rd</sup> degree and Sodomy 3<sup>rd</sup> degree, both Class D felonies.

AOC data reports 190 charges of Rape 3<sup>rd</sup> degree or Sodomy 3<sup>rd</sup> degree in CY 2016. Currently the Department has 589 inmates and 290 offenders under supervision for Rape in the 3<sup>rd</sup> degree and Sodomy 3<sup>rd</sup> degree. The additional element to these offenses may have a limited impact on the number of offenses generated under these crimes. Overall the additional impact under this legislation is expected to be minimal.

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

Creates no new misdemeanor offenses.

**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