

CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: HB 461 Introduced

BR #: 862

DOC ID#: XXXX

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

SUBJECT: AN ACT relating to penalties for driving under the influence and declaring an emergency.

SUMMARY OF LEGISLATION: Amend KRS 189A.010 to specify that, for the purposes of determining which prior DUI offenses affect penalty enhancement, offenses occurring after April 9, 2016, are measured within a ten-year look-back window, while offenses which occurred on or before April 9, 2016, are limited to a five-year look-back window under the previous version of the statute; amend KRS 189A.070 to conform; EMERGENCY.

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 type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <u>Adds date parameters.</u> | |

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 proposes, for purposes of determining additional DUI offenses, to set a date which measures the 10 year period timeframe. If the offense occurred after April 9, 2016, it sets the ten year look-back period currently in statute. If the offense occurred on or before April 9, 2016, however, the offender would be subject to a five year look-back period as was in effect at the time of the prior DUI offense. The same timeframes are applied to revocation of a driver's license due to a DUI conviction.

According to AOC, in CY2016 there were 68 Class D felony DUI convictions for DUI 4th or Subsequent Offense. Currently, DOC has 100 offenders incarcerated for DUI convictions for DUI 4th or Subsequent Offense.

The legislation could result in fewer offenders receiving convictions for subsequent DUI offenses and the associated increased penalties. Under this legislation, the impact of increased penalties for multiple DUI offenses would not be as 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

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:

The legislation could result in fewer offenders receiving convictions for subsequent DUI offenses and the associated increased penalties. The date for the ten year look back period would only be applicable from when that statutory revision was enacted in 2016, limiting the scope of individuals who would be subject to that ten year look back window as the timeframe for subsequent DUI offenses.

According to AOC data, in CY2016 there were 2,123 Class B DUI 2nd Offense convictions and 480 Class A DUI 3rd Offense convictions. In addition, there were 11,106 DUI 1st Offense convictions.

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

1 Class A misdemeanor: \$2,827 to \$11,464

A Class B misdemeanor is up to 90 days in jail.

1 Class B misdemeanor: up to \$2,827

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

100 Class A misdemeanants: \$282,700 to \$1,146,400

10 Class B misdemeanants: up to \$28,270

100 Class B misdemeanants: up to \$282,700

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