

CORRECTIONS IMPACT STATEMENT

SESSION: 17RS **BILL #: HB 485** Introduced **BR #: 1550** **DOC ID#: BR155000.100 - 1550 - XXXX**

BILL SPONSOR(S): Rep. R. Rand **AMENDMENT SPONSOR(S):**

SUBJECT: AN ACT relating to possession and trafficking of controlled substances.

SUMMARY OF LEGISLATION: Amend KRS 218A.135 to state that a defendant charged with an offense under KRS Chapter 218A may be detained for up to 72 hours at the judge's discretion.

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 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 type="checkbox"/> Otherwise impacts incarceration (Explain) _____ | |
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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

Creates no new felonies.

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 provides that a judge may detain a defendant charged with an offense under KRS 218A.135 for up to 72 hours. KRS 218A.135 speaks to pre-trial release for offenders who may be eligible for presumptive probation: defendants who are not found to be a flight risk or a danger to others who are charged with an offense which may result in presumptive probation shall be placed on pretrial release on unsecured bond or personal recognizance.

Under the proposed legislation, after the 72 hour hold or if the judge elects not to detain a defendant, and if the offense charged may result in presumptive probation, the defendant shall be placed on pretrial release.

Under current statute, Trafficking in Controlled Substances 3rd Degree and Possession of Controlled Substances 1st Degree, 1st or 2nd Offense are eligible for presumptive probation.

For CY2016 AOC reports 6,856 convictions for Possession of Controlled Substance 1st degree (a further 58 charges were unspecified as to degree) and 368 Trafficking in Controlled Substances 3rd Degree convictions (a further 849 charges were unspecified as to degree) (Note: includes inchoate offenses).

Allowing the judge to detain someone for 72 hours could negatively impact county jails by increasing the time spent incarcerated for individuals who may have otherwise been directly released on their own recognizance or unsecured bond earlier than 72 hours. Likewise, some of the offenders who may be applicable for the 72 hour hold would have been denied bond as a flight risk or a danger. It is not possible to estimate how many additional days in custody the proposed legislation may generate.

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