

CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: HB 496 Introduced

BR #: 154

DOC ID#: BR015400.100 - 154 - XXXX

BILL SPONSOR(S): Rep. J. York

AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to crimes and punishments.

SUMMARY OF LEGISLATION: Amend KRS 520.010 to remove definition of "dangerous contraband"; amend KRS 520.050 to make promoting any contraband a Class D felony; amend KRS 532.045 to conform; repeal KRS 520.060.

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 checked="" 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 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:

This legislation removes the definition of dangerous contraband in KRS 520.010, eliminating a distinction between contraband and dangerous contraband. Wording related to dangerous contraband is removed from KRS 520.050, leaving reference to contraband only. The 1st degree designation is removed and Promoting Contraband remains a Class D felony. Promoting Contraband 2nd Degree is abolished.

In addition, under this legislation, a person convicted of Promoting Contraband shall not be released on probation, shock probation, conditional discharge, or other form of early release until reaching 85% of the sentence.

AOC data reflects 902 convictions for felony Promoting Contraband 1st Degree in CY2016 from Circuit and District Court. Note: Includes inchoate offenses.

The Department currently has 1,356 offenders on supervision for felony Promoting Contraband and 75 on supervision for misdemeanor Promoting Contraband. In addition, there are currently 944 offenders currently incarcerated for Promoting Contraband 1st Degree. Note: offenders may also be serving on other charges.

Of the 944 offenders currently incarcerated, they currently serve, on average, 217 days to 20% parole eligibility. If HB 496 was in effect at the time of their sentencing, these 944 offenders would not be eligible to be released until reaching 85% of their sentence, which on average, is 543 days. The difference is 326 additional days offenders would stay in custody under this bill. At a cost to incarcerate of \$31.41 per day, the cost for the additional days in custody would be \$9,666,239.04.

This legislation would have a significant impact to the Department based on increased sentence length prior to parole eligibility.

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 abolishes the misdemeanor crime of Promoting Contraband 2nd Degree. AOC data reflects 574 misdemeanor Promoting Contraband 2nd Degree convictions in CY2016 from Circuit and District Court. Note: Includes inchoate offenses.

Making promotion of contraband a Class D felony means that offenders formerly convicted of a Class A misdemeanor would now fall under the fiscal responsibility of the state, which would be an additional source of revenue for county jails. The requirement to serve at least 85% of their sentence means they would be occupying a bed for longer period of time, which would also lead to increased revenue for the county.

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:

Commissioner, Kentucky Department of Corrections

Date