

# CORRECTIONS IMPACT STATEMENT

SESSION: 17RS BILL #: HB 93 HCS 1 BR #: 418 DOC ID#: HB009330.100 - 418 - XXXX

BILL SPONSOR(S): Rep. D. St. Onge, R. Benvenuti III, S. Santoro AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to service animals.

**SUMMARY OF LEGISLATION:** Amend KRS 525.200 to remove the requirement that a service animal be unable to return to work from the elements of the offense of first degree assault on a service animal, and add levels of injury and criminal intent to the elements.

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 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 checked="" 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 outlines intent and levels of injury (including serious physical injury) to the Class D felony of Assault on a Service Animal. In addition, the proposed change would eliminate the requirement that any injuries sustained to the service animal must be so severe that the "service animal becomes physically incapable of ever returning to service".

According to data provided by AOC, over the last four (4) calendar years there were two (2) felony convictions for Assault on a Service Animal 1<sup>st</sup> Degree. Currently, the Department has three (3) inmates for an Assault on Service Animal conviction.

The Department cannot project how many additional cases would be generated due to the removal of the inability to return to work requirement; however, given the overall number of convictions involving service animals, the impact to DOC and resulting incarceration costs would be minimal.

In addition, there were nine (9) convictions for Assault on a Service Animal 2<sup>nd</sup> Degree, a Class B misdemeanor, in CY2013-2016. Assault on a Service Animal 2<sup>nd</sup> Degree, is a Class B misdemeanor and requires intentional, and without legal justification or lawful authority, physical injury to a service animal. Under the proposed legislation, physical injury to a service animal by means of a deadly weapon or dangerous instrument would be Assault on a Service Animal in the 1<sup>st</sup> Degree, a Class D felony. With this change, some of the offenders previously convicted under the misdemeanor offense may have qualified for the felony charge, moving the incarceration costs from the jails to the state. It is not possible to know how many of these would have qualified for a felony charge under the proposed legislation, but based on the small number of convictions, it is projected the impact to the Department would be minimal.

If ten (10) offenders were convicted to a Class D felony for Assault on a Service Animal, the cost to the Department would range from \$114,640 to \$573,200.

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:

Assault on a Service Animal 2nd Degree, is a Class B misdemeanor and requires intentional, and without legal justification or lawful authority, physical injury to a service animal. Under the proposed legislation, physical injury to a service animal by means of a deadly weapon or dangerous instrument would be Assault on a Service Animal in the 1st Degree, a Class D felony. With this change, some of the offenders previously convicted under the misdemeanor offense may have qualified for the felony charge, moving the incarceration costs from the jails to the state.

Jails will receive per diem payments for the Class D felony offenders that they would not receive for the Class B misdemeanors. It should be noted that the total per diem payment is not a total cost savings to local jails due to the cost to incarcerate; however, that amount is above what they would have received to offset the cost of housing an offender serving on a misdemeanor.

According to data provided by AOC over the past four (4) years, there were nine (9) convictions for Assault on a Service Animal 2nd Degree, a Class B misdemeanor. It is not possible to know how many of these would have qualified for a felony charge under the proposed legislation, but based on the small number of convictions, it is projected the impact to the local jails would be minimal.

House Committee Substitute:

The House Committee Substitute specifies that the definition of service animal for this bill does not include assistance dogs. The exclusion of assistance dogs may eliminate certain assaults from prosecution under the Class D felony. The Department's records do not distinguish the type of service dog that was involved in an Assault on a Service Animal, so it is unknown if the 3 offenders who are currently incarcerated for Assault of a Service Animal were assaults conducted on assistance dogs.

**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

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 Date