

# CORRECTIONS IMPACT STATEMENT

SESSION: 17RS

BILL #: SB 148 Introduced

BR #: 1229

DOC ID#: BR122900.100 - 1229 - XXXX

**BILL SPONSOR(S):** Sen. T. Buford

**AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to distribution of sexually explicit images without the consent of the person depicted.

**SUMMARY OF LEGISLATION:** Amend KRS 531.010 to define "private erotic matter"; create a new section of KRS Chapter 531 to prohibit the distribution of sexually explicit images without consent, and make such distribution a Class A misdemeanor unless it is done for profit, in which case it is a Class D felony.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |  |  |
|--|--|
| <input checked="" 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:

SB 148 creates a new crime prohibiting the distribution of sexually explicit images without consent. The offense would be a Class A misdemeanor unless it is for profit, which would raise the penalty to a Class D felony.

It is not possible to estimate the number of additional offenders the new crime would create. Though not a direct comparison, AOC data reports 869 felony Class D convictions in FY2016 for Possession/View Matter Portray Sexual Performance by Minor (note that the current bill is not restricted to sexually explicit material involving a minor).

Though the bill would create additional misdemeanor and felony offenses, the number would not be expected to have a significant impact on the Department.

**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:

SB 148 creates a new misdemeanor which will impact the county jails through creating additional county prisoners, which utilizes a county jail bed for a non-revenue generating county offender. For the new Class D felony offense, the legislation will impact county jails by increasing the state inmate population, which is a source of revenue, but will also increase inmates in county facilities that are currently at capacity.

Based on the probable number of offenders sentenced for this offense, however, the overall impact to the local jails is expected to be minimal.

**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