

AMENDED CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 101 GA

BR #: 124

DOC ID#: BR012400.100 - 124 - XXXX

BILL SPONSOR(S): Rep. J. Petrie, J. Wayne **AMENDMENT SPONSOR(S):**

SUBJECT: AN ACT relating to crimes and punishments.

SUMMARY OF LEGISLATION: Amend KRS 510.020 to state that a 16 or 17-year old is incapable of consent when the actor is 28 years old or more; amend KRS 510.030 to add lack of knowledge of the victim's age being 16 or 17 when the offender was at least 28 years old at the time of the offense as a defense; amend KRS 510.060 to add to rape in the third degree a person who is 28 years old or more that has sexual intercourse with a 16 or 17-year old; amend KRS 510.090 to add to sodomy in the third degree a person who is 28 years old or more that has deviate sexual intercourse with a 16 or 17-year old; provide that this Act may be cited as Jenna's Law.

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 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 \$70.12. 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 \$31.45 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 MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

Under this proposed legislation, an additional determination of consent is added to KRS 510.020 indicating a person is not capable of consent when he or she is sixteen (16) to seventeen (17) years old and the perpetrator is twenty-eight (28) years old or more. Being twenty-eight (28) years or more of age and engaging in sexual intercourse with a person who is sixteen (16) to seventeen (17) years old is added to Rape 3rd Degree and Sodomy 3rd degree.

The Department currently has 557 offenders incarcerated and 305 offenders on community supervision for Rape 3rd Degree and Sodomy 3rd Degree. Records from AOC reveal 85 convictions for Rape 3rd Degree and 66 convictions for Sodomy 3rd Degree in FY2017.

It is not possible to determine how many of these offenses involve sexual interaction with a person twenty-eight (28) years of age or older and the victim as age sixteen (16) to seventeen (17) years old. The Department does not currently track ages of perpetrators or victims. Overall, it can be assumed that this number would be a much smaller subset than the total number of offenders convicted of Rape and Sodomy 3rd Degree.

Inmates serving on Rape or Sodomy 3rd Degree serve the Class D sentence at either a jail or prison facility, depending on the length of their sentence, as outlined in KRS 532.100. It is anticipated that changes under the proposed legislation would not have a significant effect on incarceration costs for the Department of Corrections as the number of additional offenses incurred would be limited to the specific ages outlined in this legislation.

Offenders convicted of this offense would be required to complete sex offender treatment and subject to sex offender registration and postincarceration supervision.

A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$114,808 to \$574,040
1 Class D Felon costs KY \$11,481 to \$57,404	100 Class D Felons cost KY \$1.1M 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 MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

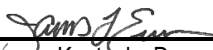
The impact this legislation would have on local corrections would be minimal, involving additional offenders convicted of Rape or Sodomy 3rd Degree under this legislation who would meet the qualifications to be housed at a county jail. The additional number of offenders would not be expected to be significant due to the specific circumstances of this offense.

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. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY:



Commissioner, Kentucky Department of Corrections

2/7/2018
Date