

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: SB 107 SCS 1

BR #: 1260

DOC ID#: XXXX

**BILL SPONSOR(S):** Sen. J. Adams      **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to mental illness.

**SUMMARY OF LEGISLATION:** Amend KRS 532.130, 532.135, and 532.140 to add a diagnosis of serious mental illness to the disabilities which prevent execution for persons convicted of capital offenses.

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 checked="" 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 \$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)

This legislation adds serious mental illness as a factor which would prohibit an offender from being subject to execution under a capital offense. To be applicable, the defendant would have to have a documented serious mental illness at the time of offense. The legislation lists six mental disorders that would be considered: schizophrenia, schizoaffective disorder; bipolar disorder; major depressive disorder; delusional disorder; or post-traumatic stress disorder.

It is not known how many offenders would be precluded from a sentence of death under this legislation. Given the relatively small number of offenders receiving a capital conviction, the number of offenders who would meet the criteria established in this legislation would be a smaller percentage.

There are currently 32 inmates on death row in Kentucky. It is assumed that if not receiving a sentence of death, a defendant targeted by this legislation may well be sentenced to life in prison.

Inmates currently under the death penalty have served an average of 24.5 years from the start of their incarceration and inmates who have been executed spent an average of 12 years from incarceration until death. Male inmates with a sentence of death are housed at the Kentucky State Penitentiary, which has an average annual cost to incarcerate of \$35,764.60 per inmate. Female inmates with a sentence of death are housed at the Kentucky Correctional Institute for Women at an annual cost of \$28,897.06.

For the 899 inmates currently serving a sentence of life without parole, the current average length of time served is 18.4 years (reflective of when the statute was changed). For inmates who have died while incarcerated serving on a life sentence, the average time served prior to death was 26 years. The average annual cost to incarcerate offenders with a life sentence is \$25,594.44 per year. However, given the specific mental health needs of the offenders identified by this legislation, they would likely be housed in a mental health unit at a slighter higher cost of \$29,314.41 annually.

Additional savings to the state in a life sentence rather than a sentence of death would be costs avoidance associated with an execution, including lethal injection drugs, handling of the body (ambulance, coroner, crematorium, etc.), the execution team (training and overtime pay), and added security for the public, press, etc. Also eliminated would be costs the state bears for legal appeals available to death row inmates.

Senate Committee Substitute:

The Senate Committee Substitute removes post-traumatic stress disorder from the list of illnesses that would exempt a defendant from the death penalty.

Under the Senate Committee Substitute fewer individuals would meet the qualifications for an exemption from the death penalty and therefore may be subject to a life sentence. It is not known how many offenders facing a capital conviction would be diagnosed with post-traumatic stress disorder.

**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 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:**                          3/2/2018  
Commissioner, Kentucky Department of Corrections                      Date