

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: SB 258 Introduced

BR #: 1904

DOC ID#: XXXX

**BILL SPONSOR(S):** Sen. M. McGarvey **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to human trafficking.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to include as violent offenders individuals convicted of human trafficking and promoting human trafficking; specify that individuals convicted of human trafficking or promoting human trafficking shall not be released on probation or parole until 85 percent of the sentence has been served.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

Creates new crime(s)

Increases penalty for existing crime(s)

Increases incarceration

Reduces inmate/offender services

Increases staff time or positions

Changes elements of offense for existing crime(s)

Otherwise impacts incarceration (Explain) \_\_\_\_\_

Repeals existing crime(s)

Decreases penalty for existing crime(s)

Decreases incarceration

Increases inmate/offender services

Reduces staff time or positions

**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)

The legislation amends KRS 439.3401 to include Promoting Human Trafficking under KRS 529.110 to the violent offender statute and widen the application of Human Trafficking under KRS 529.100 as a violent offender. Under current statute, Human Trafficking is only a violent offense if it involves commercial sexual activity of a minor. Under this legislation, any level of Human Trafficking or Promoting Human Trafficking would be a violent offense, subject to 85% of the sentence being served prior to parole eligibility.

KRS 529.100 Human Trafficking is a Class C felony unless it involves serious physical injury to a victim, in which it is a Class B felony.

KRS 529.110 Promoting Human Trafficking is a Class D felony unless the victim of human trafficking is under eighteen (18) years of age, in which case it is a Class C felony.

AOC records reflect three (3) convictions in FY 2017 for Promoting Human Trafficking (including inchoate offenses) and zero (0) convictions for Human Trafficking.

The Department's records currently reflect two (2) offenders incarcerated for Class D Promoting Human Trafficking and one (1) offender incarcerated for Promoting Human Trafficking Victim under the age of 18 (KRS 529.110). Additionally, the Department has one (1) offender incarcerated for Class C Human Trafficking.

The Department's records also reflect two (2) offenders incarcerated for the Class B offense of Human Trafficking No Serious Physical Injury, Victim under the age of 18 (KRS 529.100). There are currently no offenders incarcerated for Human Trafficking Serious Physical Injury, Victim under the age of 18.

Human Trafficking that is a Class A or Class B felony already would fall under the violent offender statute requiring 85% service of the sentence prior to parole eligibility. Under this statute, Class C Human Trafficking which currently is at 20% parole eligibility would be increased to 85% parole eligibility. Additionally, under current statute Class C Promoting Human Trafficking is 20% parole eligibility and Class D Promoting Human Trafficking is 15% parole eligibility. Both of these would also be increased to 85% parole eligibility under SB 258.

The Department has two (2) offenders currently serving under offenses included in this bill which are subject to the violent offender statute. There are an additional four (4) offenders who under current law are subject to 15 or 20% parole eligibility and who, if convicted under SB 258, would be subject to 85% service.

There would be a limited number of offenders convicted for human trafficking. However, even with a limited number, the increase from 15% or 20% parole eligibility to 85% parole eligibility will have a significant increase in incarceration costs.

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|---|--|
| 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      |
| A Class C Felony sentence is 5 to 10 years.     | 10 Class C Felons cost KY \$1.3M to \$2.6M       |
| 1 Class C Felon costs KY \$127,972 to \$255,944 | 100 Class C Felons cost KY \$12.8M to \$25.6M    |
| A Class B Felony sentence is 10 to 20 years.    | 10 Class B Felons cost KY \$2.6M to \$5.1M       |
| 1 Class B Felon costs KY \$255,944 to \$511,889 | 100 Class B Felons cost KY \$25.6M to \$51.2M    |

**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)

While Promoting Human Trafficking is not included, Human Trafficking is listed as a sex crime under KRS 17.500. Under KRS 532.100 sex offenders with a sentence of two years or more will serve their sentence in a state prison rather than a county jail.

Under SB 258, Class D Promoting Human Trafficking would be a violent offense, but as it remains a Class D felony, under statute, the offender would serve a period of incarceration at a Class D jail facility at the cost of \$31.34 per day. However, under this legislation, the period of incarceration until possible release to parole would be longer. With limited jail capacity, longer sentences do have an impact on the jail population.


As there are few convictions under this statute, the impact to county jails would 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. 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:**

  
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Commissioner, Kentucky Department of Corrections

**3/9/2018**

Date