

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 102 Prefiled BR # 199 DOC ID #: XXXX

BILL SPONSOR(S): Rep. L. Bechler AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to sex offenses against minors and declaring an emergency.

SUMMARY OF LEGISLATION: Amend KRS 500.050 to remove the five-year statute of limitations for misdemeanor sex offenses against minors and allow prosecution to be commenced at any time; amend KRS 413.249 to remove the ten-year statute of limitations for civil actions arising from childhood sexual assault or abuse and allow a suit to be commenced at any time; provide for severability; EMERGENCY.

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 type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <i>Expands/Removes the statute of limitations.</i> | |

STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$71.10. 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 \$32.78 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 to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The legislation removes the statute of limitations for misdemeanor sex offenses under KRS 500.050. Current statute has a five (5) year statute of limitations after the victim reaches the age of eighteen (18).

Current statute is limited to offenses listed under KRS 510. The proposed legislation expands misdemeanor sex offense to include those in KRS 510, KRS 531 (*involving or depicting a minor*), as well as Criminal Attempt or Criminal Solicitation to offenses under KRS 510, KRS 531 (*involving or depicting a minor*), and the following: KRS 529.040 Promoting Prostitution (*when advances or profits from a minor*), KRS 529.100 Human Trafficking (*involving commercial sexual activity*), KRS 529.110 Promoting Human Trafficking (*involving commercial sexual activity*), and KRS 530.064 Unlawful Transaction with a Minor 1st Degree (*for illegal sexual activity*).

The statute of limitations for civil actions for childhood sexual assault or abuse is removed under KRS 413.249. Current statute has a ten (10) year statute of limitations (either from the act, last act, date the victim knew/should have known, the victim reaches age eighteen (18), or civil conviction). Instructions on sealing the record if a complaint is filed outside of the statute of limitations are removed from the statute.

The definitions for childhood sexual abuse and childhood sexual assault are combined in KRS 413.249. The definition expands offenses which would meet the criteria for childhood sexual abuse or assault: KRS 510, KRS 529.040 Promoting Prostitution (*when advances or profits from a minor*), KRS 529.100 Human Trafficking (*involving commercial sexual activity*), KRS 529.110 Promoting Human Trafficking (*involving commercial sexual activity*), KRS 530.020 Incest, KRS 530.064 Unlawful Transaction with a Minor 1st Degree (*for illegal sexual activity*), KRS 531 (*involving or depicting a minor*), and Criminal Attempt or Criminal Solicitation of any of these offenses.

Restrictions under KRS 6.945 are not applied to the legislation. Provision for severability is included if provisions are found to be invalid. The legislation is identified as an emergency act.

For the offenses cited in the legislation's definition of a misdemeanor sex offense and where the victim is identified as a minor, the Department of Corrections currently has seventy-four (74) offenders on supervision. AOC records for FY2018 reflect eighty-three (83) convictions for the misdemeanor sex offenses comprised in the definition included in the legislation where a minor victim could be identified. Note: not all of the specified misdemeanor offenses identify the age of the victim. Included here are only the offenses for which a minor victim can be identified. Note: offenders may have multiple offenses.

Under the proposed legislation, due to the removal of the statute of limitations, additional offenders may be convicted of a misdemeanor sex offense. It is not possible to predict how many offenders would be prosecuted under the changes provided by this legislation that previously would not have been eligible for prosecution due to the statute of limitations.

Offenders convicted of a misdemeanor sex offense may be subject to incarceration at a local jail or to supervision by the Department of Corrections' Division of Probation & Parole.

Overall, this legislation would be expected to have a minimal to moderate impact.

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 to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

Misdemeanor offenses are subject to county jurisdiction. Misdemeanor offenders convicted under this legislation would serve a sentence of incarceration at a local detention center at the cost to the county.


It is not known how many additional offenders would be convicted of a misdemeanor sex offense due to the removal of the statute of limitations. The number of additional convictions provided by the legislation and the corresponding impact on incarceration at the local level would not be expected to be significant.

It should be noted, however, that due to limited capacity, any number of additional offenders does impact local jail populations.

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:  1/7/2019
Commissioner, Kentucky Department of Corrections Date