

## CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 145 Introduced . BR # 340 DOC ID #: XXXX

BILL SPONSOR(S): Rep. R. Meeks AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to hate crimes.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 525 to create the offense of a hate crime; amend KRS 532.031, relating to when a judge may determine at sentencing whether an offense was committed as a result of a hate crime, to include the hate crime offense.

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

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|--|--|
| <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) .       |  |

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**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)

HB 145 creates a new offense. A person is guilty of a hate crime if he or she intentionally causes physical injury to another person, or through the use of deadly weapon or dangerous instrument, attempts to cause physical injury to another person because of their race, color, religion, national origin, gender, sexual orientation, gender identity, or disability. Gender identity is defined.

A Hate Crime is established as a Class A felony if the offense results in death, is attempted murder, kidnapping, attempted kidnapping, a sexual offense, or attempt to commit a sexual offense. A sexual offense is defined as Rape 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Degree; Sodomy 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Degree; or Sexual Abuse 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Degree. Otherwise a Hate Crime is a Class B felony.

The criteria defining a Hate Crime is added to KRS 532.031, outlining the offenses a sentencing judge may determine to have been committed as a result of a hate crime.

Restrictions under KRS 6.945(1) shall not apply to the legislation.

AOC does not track information on convictions that are designated as hate crimes.

It is not possible to determine how many offenses would be designated as a hate crime.

The establishment of a Class A or B felony increases sentence length and the associated incarceration costs. Overall, however, the number of offenses committed as a hate crime would not be expected to be significant.

A Class A Felony sentence is 20 years or more.  
1 Class A Felon costs KY a minimum of \$519,012

10 Class A Felons cost KY a minimum of \$5.2M  
100 Class A Felons cost KY a minimum of \$52M

A Class B Felony sentence is 10 to 20 years.

10 Class B Felons cost KY \$2.6M to \$5.2M

1 Class B Felon costs KY \$259,506 to \$519,012

100 Class B Felons cost KY \$26M to \$52M

**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)

Class D felony sex offenders can serve their sentence at a county jail if the sentence is less than two years. Class C felony sex offenders would not be eligible for community custody. Under this legislation, a hate crime is a Class A or Class B felony, requiring service of the sentence at a state prison facility.

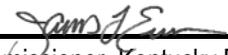
Removal of offenses from qualification to serve the incarceration at a county jail would be a loss of revenue for the jails, though the number of offenses generated as a hate crime is not likely to be significant.

Overall, it is not possible to predict how many offenders would be designated as a hate crime.

**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:**  **1/18/2019**  
Commissioner, Kentucky Department of Corrections Date