

## CORRECTIONS IMPACT STATEMENT

**SESSION: 19RS BILL # HB 235 Introduced . BR # 1182 DOC ID #: xxxx**

**BILL SPONSOR(S): Rep. C. Booker AMENDMENT SPONSOR(S): . .**

**SUBJECT:** AN ACT relating to community supervision.

**SUMMARY OF LEGISLATION:** Amend KRS 439.250 to define "technical violation" and "absconding"; amend KRS 439.553, relating to community supervision conditions for those on probation, to require graduated sanctions for technical violations and absconding; amend KRS 439.3107 to require the Department of Corrections to adopt a system of graduated sanctions for probationers for technical violations and absconding; amend KRS 439.3108 to require graduated sanctions for probationers for the first absconding violation unless the parole officer determines the individual has committed new criminal activity during the absconding period or the individual is on supervision for a sexual or violent offense; allow the Department of Corrections to use graduated sanctions for probationers for the second and subsequent absconding violation; amend KRS 439.341 to require preliminary hearings for probationers who have been detained for a technical violation to be conducted within 15 days of detainment; amend KRS 533.050 to require a final revocation hearing for probationers to be held within 30 business days of the preliminary hearing; EFFECTIVE January 1, 2020.

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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 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 checked="" type="checkbox"/> Decreases incarceration      |
| <input type="checkbox"/> Reduces inmate/offender services                  | <input type="checkbox"/> Increases inmate/offender services      |
| <input checked="" 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)

Section 1 (KRS 439.250) of HB 235 modifies the definition of supervised individual and adds definitions for technical violation and absconding. Absconding is defined as the willful avoidance of detection of a probation and parole officer for at least thirty (30) days and after the probation and parole officer has made at least four (4) documented attempts to locate the supervised individual.

Section 2 (KRS 439.553) requires graduated sanctions for offenders on supervision from the court for the violation of absconding. Violations for new misdemeanor or felony convictions may have graduated sanctions imposed.

Section 3 (KRS 439.3107) establishes graduated sanctions for offenders on supervision from the court.

Section 4 (KRS 439.3108) sets guidelines for court offenders who have absconded supervision. For the first absconding violation, graduated sanctions shall be used in lieu of revocation, unless the offender is arrested for new criminal activity or is being supervised for a violent offense under KRS 439.3401 or a sex offense as defined in KRS 17.550. For a second or subsequent absconding violation, graduated sanctions may be used in lieu of revocation.

Section 5 (KRS 439.341) requires that if an offender is detained on a technical violation, a preliminary revocation hearing shall be held within fifteen (15) business days of the date of detainment. If the hearing does not occur within that timeframe, the individual shall be released from custody and continued on supervision.

Section 6 (KRS 533.050) states the court shall only modify or revoke offenders after a hearing is held. If an offender is arrested on a warrant and detained for a technical violation, a final revocation hearing shall be held within thirty (30) business days of the date of the preliminary revocation hearing. If a final hearing does not occur within that timeframe, the individual shall be released from custody and continued on supervision.

Section 7 establishes an effective date of January 1, 2020.

As an example, 817 offenders on shock probation were revoked in 2018, with 503 receiving graduated sanctions prior to revocation. Of those revoked, 31% were violations of sex offender conditions, 26% had drug related violations, 18% absconded, 15% had other technical violations, 5% received new misdemeanor convictions, 3% received new felony convictions, and 1% had weapons violations.

Of the offenders currently on probation, less than 2% are sex offenders or violent offenders.

HB 235 would reduce the number of revocations for absconding. Reducing the number of offenders entering prison by way of probation violations would reduce the inmate population.

Many offenders who currently receive substance abuse treatment while incarcerated, under this legislation, would remain in the community with treatment needs. This may require additional resources and staffing to provide for clinical services and treatment related to substance abuse.

The legislation would also have an effect on caseload size for the Division of Probation & Parole, with additional offenders remaining on supervision who would require elevated levels of supervision, monitoring, and services. Caseload ratios and high criminogenic need offenders may also require additional resources and staffing at the community level.

**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)


Reducing the number of offenders incarcerated, including those who are incarcerated due to a probation violation or revocation would have an impact on the population of local county detention centers. Currently a large percentage of the state inmate population are housed in a county jail facility, either held as a violator or serving a state sentence of incarceration.

Population reductions would reduce the opportunity for revenue, but also provide a significant relief for county detention facilities currently experiencing overpopulation.

**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:**  **2/28/2019**  
Deputy Commissioner, Kentucky Department of Corrections Date