

# CORRECTIONS IMPACT STATEMENT

**SESSION: 19RS BILL # HB 25 Introduced BR # 66 DOC ID #: XXXX**

**BILL SPONSOR(S):** Rep. W. Thomas, J. DuPlessis, DJ Johnson, D. Schamore **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to domestic violence.

**SUMMARY OF LEGISLATION:** Amend KRS 525.135 to prohibit pretrial diversion for a person charged with torture of a dog or cat, to make torture of a dog or cat a Class D felony, and to prohibit any form of early release for those who torture a dog or cat as a way to threaten, intimidate, coerce, harass, or terrorize a family member or member of a dating relationship; amend KRS 533.250 to prohibit the pretrial diversion program from being used for someone charged with torture of a dog or cat.

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**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 checked="" 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 checked="" 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)

The legislation amends the criminal offense of Torture of a Dog or Cat under KRS 525.135. Under current statute, Torture of a Dog or Cat is a Class A misdemeanor for a 1<sup>st</sup> Offense and a Class D felony for a subsequent offense or if the animal suffers physical injury or death.

The legislation removes the Class A misdemeanor for a 1<sup>st</sup> offense and makes Torture of a Dog or Cat a Class D felony.

A person charged with Torture of a Dog or Cat shall not be eligible for pretrial diversion under KRS 533.250. The legislation prohibits any form of early release for an offender convicted of Torture of a Dog or Cat with the intent to threaten, intimidate, coerce, harass, or terrorize a family member (as defined in KRS 403.720) or member of a dating relationship (as defined in KRS 456.010).

KRS 403.720 defines a family member a spouse, former spouse, grandparent, grandchild, parent, child, stepchild, or any other person living in the same household as a child if the child is the alleged victim. KRS 456.010 characterizes a dating relationship as a romantic or intimate relationship, listing several factors to determine the nature of the relationship.

AOC records reflect fourteen (14) convictions for Torture of a Dog or Cat in FY 2016-2018.

The Department of Corrections currently has nine (9) offenders incarcerated and eleven (11) offenders on supervision for Torture of a Dog or Cat. Note: offenders may also be incarcerated on other charges.

It is not known how many of these offenses may have been committed with the intent to harass or threaten a family member or as a form of dating violence. The prohibition of pretrial diversion, probation, or other form of early release would increase the number of offenders incarcerated and lengthen the term of incarceration.

As a Class D offender, offenders subject to this offense would serve their sentence in a county jail at a cost to the state of \$31.34 per day.

The nine (9) offenders currently incarcerated on this charge have an average sentence length on this crime of 1,500 days. Currently these offenders would be eligible for parole at 15%, or an average of 225 days. If these offenders are prohibited from early release, they would be subject to serving the entirety of the sentence at a cost of \$31.34 per day, totaling an additional incarceration cost of \$39,958.50 for each offender.

Additionally, currently the Department has eleven (11) offenders on supervision for six (6) felony offenses and five (5) misdemeanor offenses. Note: offenders may be convicted on multiple offenses. If this legislation was in effect at the time of their sentence, these misdemeanor offenders would be facing a felony conviction. Further, if the offense of a Torture of a Dog or a Cat was committed to threaten or terrorize a family member or dating partner, they would not be eligible for probation or early release as an inmate.

While the number of offenders incarcerated on the specific nature of this offense would be minimal, there would be an increase in felony convictions and additional incarceration costs under this legislation.

A Class D Felony sentence is 1 to 5 years. 1 Class D Felon costs KY \$11,965 to \$59,824  
10 Class D Felons cost KY \$119,649 to \$598,244 100 Class D Felons cost KY \$1.2M to \$6M

**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)

This legislation removes the misdemeanor offense of Torture of a Dog or Cat. As the number of convictions for this offense are minimal, the shift from a felony to a misdemeanor offense is not expected to have a significant impact on the cost to counties.

Offenders convicted under this legislation would be a Class D felony, and if the offense is committed against a family member or dating partner, the offender would not be eligible for community supervision or early release.

The felony offender would be a state inmate housed in a county jail. This provides additional revenue for jails. However, in times of current overcrowding the prohibition of early release has a significant impact on the occupancy of jail beds.

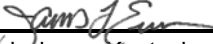
Additional offenders receiving a sentence of incarceration and longer sentence lengths would increase incarceration costs. However, the number of offenders who would be subject to this incarceration requirement would likely be minimal.

A Class A misdemeanor is 90 days to 1 year in jail. 1 Class A misdemeanor: \$2,821 to \$11,439  
10 Class A misdemeanants: \$28,206 to \$114,391 100 Class A misdemeanants: \$282,060 to \$1,143,910

**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:**  **12/11/2018**  
Commissioner, Kentucky Department of Corrections Date