

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 400 Introduced . BR # 344 DOC ID #: xxxx

BILL SPONSOR(S): Rep. J. Jenkins, T. Branham Clark, M. Sorolis AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to strangulation.

SUMMARY OF LEGISLATION: Create new sections of KRS Chapter 508 to create the new crimes of strangulation in the first degree as a Class C felony, and strangulation in the second degree as a Class D felony; amend KRS 403.720 to include strangulation in the definition of "domestic violence and abuse"; amend KRS 456.010 to include strangulation in the definition of "dating violence and abuse"; amend KRS 15.334, 15.440, 15.718, 21A.170, 30A.015, 194A.540, 194A.545, and 194A.550 to mandate training on screening and forensic evidence collection in strangulation cases.

AMENDMENT: .

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|--|--|
| <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 400 creates a new offense of Strangulation. Strangulation 1st Degree is, outside of a legitimate medical or dental procedure, the intentional impediment of normal breathing or circulation of the blood of another person by applying pressure on the throat or neck or blocking the nose or mouth. An additional element of Strangulation 1st Degree: a minor victim; the victim as a family member or member of an unmarried couple or dating relationship; loss of consciousness, bowel or bladder control; an ordered protective order; use or threatened use of a deadly weapon or dangerous instrument; prior convictions for strangulation or similar offense; prior Assault 1st -3rd Degree convictions or similar offense against the victim; or three (3) prior Assault 1st -3rd Degree convictions.

Strangulation 1st Degree is a Class C felony.

Strangulation 2nd Degree is, outside of a legitimate medical or dental procedure, the intentional impediment of normal breathing or circulation of the blood of another person by applying pressure on the throat or neck or blocking the nose or mouth.

Strangulation 2nd Degree is a Class D felony.

Strangulation is added to the definition of domestic violence and abuse under KRS 403.720 and KRS 456.010. Under KRS 15.334, strangulation is added as a required training course under the Kentucky Law Enforcement Council for law enforcement basic training. KRS 15.440 adds Civil Orders of Protection, child abuse, and strangulation as policy

requirements to be eligible for the Law Enforcement Foundation Program fund. Under KRS 15.718, KRS 21A.170, KRS 30A.015 training is required for Commonwealth's and county attorneys, judges, and circuit clerks. Under KRS 194A.540, KRS 194A.545, & KRS 194A.550 the Cabinet for Health and Family Services is required to establish training courses for specified professions.

A percentage of acts currently charged as misdemeanor domestic violence offenses under current statute could be charged as Strangulation, though not all domestic violence assaults reflect conduct that would be defined as strangulation.

For comparison purposes, Department of Corrections records reflect 1,677 offenders with the offense of Assault 4th Degree. Sixty-eight (68) are currently incarcerated (note: may be incarcerated on other charges) and 1,609 are on community supervision. AOC records for FY 2018 reflect 879 convictions for Assault 4th Degree in Circuit Court and 6,476 convictions for Assault 4th Degree in District Court.

It is not possible to predict how many offenders would be convicted of the felony offense of Strangulation. Overall, the addition of this offense is not expected to have a significant impact on incarceration costs.

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,297,530.56 to \$2,595,061.12
1 Class C Felon costs KY \$129,753.06 to \$259,506.11	100 Class C Felons cost KY \$12,975,305.58 to \$25,950,611.17
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$119,648.71 to \$598,243.56
1 Class D Felon costs KY \$11,965.87 to \$59,824.36	100 Class D Felons cost KY \$1,196,487.11 to \$5,982,435.57

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 C offenders may be eligible to serve their sentences at the county jail if qualifying for community custody, based on length of sentence remaining and custody classification. If not community custody eligible, offenders would be housed at a state prison at a cost of \$71.10 per day.

Class D felony offenses are subject to service of the sentence in a county jail facility at a daily cost to the state of \$31.34.

The addition of a felony offense provides an opportunity for additional revenue for jails. Current prosecution for criminal behavior included in this legislation may be at the misdemeanor level, which would be subject to the jurisdiction and cost of the county.

Overall, the impact to incarceration under this legislation would likely be minimal to moderate.

Corrections Impact from Amendments:

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