

# CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 5 GA BR # 949 DOC ID #: HB000510.100 - 949 - XXX

**BILL SPONSOR(S):** Rep. M. Prunty, N. Tate, L. Bechler, D. Bentley, J. Blanton, K. Bratcher, R. Brenda, R. Bridges, J. DuPlessis, L. Elkins, J. Fischer, D. Frazier, C. Freeland, C. Fugate, R. Goforth, D. Hale, M. Hart, R. Heath, R. Huff, T. Huff, K. King, S. Lee, S. Lewis, S. Maddox, C. Massey, D. Meade, T. Moore, P. Pratt, B. Reed, B. Rowland, S. Santoro, S. Sheldon, J. Sims Jr, W. Thomas, J. Tipton, T. Turner, R. Webber **AMENDMENT SPONSOR(S):** . .

**SUBJECT:** AN ACT relating to the human rights of unborn children to not be discriminated against and declaring an emergency.

**SUMMARY OF LEGISLATION:** Create new section of KRS Chapter 311 to prohibit an abortion if the pregnant woman is seeking the abortion, in whole or in part, because of an unborn child's sex, race, color, national origin, or disability, except in the case of a medical emergency; require physicians to certify a lack of knowledge that the pregnant woman's intent to seek an abortion was, in whole or in part, because of an unborn child's sex, race, color, national origin, or disability; require the State Board of Medical Licensure to revoke a physician's license to practice medicine if the physician violates the prohibition; provide that the Cabinet for Health and Family Services shall revoke the license of any person, including a licensed abortion facility, that violates the prohibition; provide that a physician who violates the prohibition is civilly liable; allow for severability; amend KRS 311.595 to allow the State Board of Medical Licensure to suspend or revoke the license of any physician who violates the prohibition; amend KRS 311.725, regarding informed consent for abortions, to notify pregnant women of the prohibition; amend KRS 311.990 to provide that a person who violates the prohibition is guilty of a Class D felony; amend KRS 213.101 to conform; amend KRS 413.140 to provide a one-year statute of limitations for civil actions arising from a violation of the prohibition; EMERGENCY.

**AMENDMENT:** Make technical corrections.

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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)

Section 1 of HB 5, the Human Rights of the Unborn Child and Anti-Discrimination Act, makes it unlawful to knowingly perform or attempt to perform an abortion knowing the pregnant woman is seeking an abortion due to sex, race, color, national origin, or disability diagnosis of the unborn child. There is an exception for a medical emergency.

The legislation includes reporting requirements, licensing provisions, civil liability, severability, and emergency authorization.

Section 2 (KRS 311.595) adds the prohibition contained in this legislation to the list of items that could cause suspension or revocation of medical licensing.

Section 3 (KRS 311.725) requires a pregnant woman seeking an abortion be informed of specific information, including the prohibition established in this legislation.

Sections 4 & 5 (KRS 311.990) (Section 4 effective until July 1, 2019, and Section 5 effective July 1, 2019) establishes a Class D felony for violation of this prohibition.

Section 6 (KRS 213.101) updates physician reporting requirements and Vital Statistics administration regulation requirements.

Section 7 (KRS 413.140) provides a one-year statute of limitations timeframe for civil actions for the prohibition contained in this legislation. Section 8 provides the title and Section 9 prohibits the application of KRS 6.945(1).

Current AOC data reports zero (0) convictions for Performing Abortion after Viability or related KRS 311 statutes. The Department of Corrections does not currently have any offenders incarcerated or on supervision for criminal offenses relating to abortion.

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

While there is no way to predict the number of new convictions this provision would generate, the number of convictions under this legislation would likely be few in number. The expected impact to the Department under this legislation would be very minimal.

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

Offenders convicted under this legislation would be Class D felons housed in a county jail as a state inmate. This provides additional revenue for jails. However, in times of current overcrowding any additional incarceration has an impact on the occupancy of jail beds.

Overall, any impact to local incarceration stemming from this legislation would be, at most, minimal.

**Corrections Impact from Amendments:**

The Committee Substitute changes a subsection reference. There is no impact to Corrections from the Committee Substitute.

**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