

## CORRECTIONS IMPACT STATEMENT

**SESSION: 19RS BILL # SB 210 Introduced . BR # 1289 DOC ID #: xxxx**

**BILL SPONSOR(S): Sen. M. McGarvey AMENDMENT SPONSOR(S): . .**

**SUBJECT:** AN ACT relating to human trafficking.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to include as violent offenders individuals convicted of promoting human trafficking; specify that individuals convicted of human trafficking or promoting human trafficking shall not be released on probation or parole until 85 percent of the sentence has been served.

**AMENDMENT:** .

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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 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 KRS 439.3401 to include Promoting Human Trafficking under KRS 529.110 to the violent offender statute and widen the application of Human Trafficking under KRS 529.100 as a violent offender. Under current statute, Human Trafficking is only a violent offense if it involves commercial sexual activity of a minor. Under this legislation, any level of Human Trafficking or Promoting Human Trafficking would be a violent offense, subject to 85% of the sentence being served prior to parole eligibility.

KRS 529.100 Human Trafficking is a Class C felony unless it involves serious physical injury to a victim, in which it is a Class B felony. The penalty range is one level higher if the victim is a minor, as well.

KRS 529.110 Promoting Human Trafficking is a Class D felony unless the victim of human trafficking is a minor, in which case it is a Class C felony.

AOC records reflect nine (9) convictions in FY 2018 for Promoting Human Trafficking and thirteen (13) convictions for Human Trafficking (including inchoate offenses).

The Department of Corrections' records currently reflect zero (0) offenders incarcerated for Class D Promoting Human Trafficking and two (2) offenders incarcerated for Class C Promoting Human Trafficking Victim under the age of 18 (KRS 529.110).

Additionally, the Department has one (1) offender incarcerated for Class C Human Trafficking, five (5) offenders incarcerated for the Class B offense of Human Trafficking Victim under the age of 18 (KRS 529.100). There are currently zero (0) offenders incarcerated for Class A Human Trafficking Serious Physical Injury, Victim under the age of 18.

There is one (1) offender on supervision for Class C Human Trafficking.

Class A Human Trafficking and Class B Human Trafficking with Serious Physical Injury would fall under the violent offender statute requiring 85% service of the sentence prior to parole eligibility. Under this statute, Class B & Class C Human Trafficking which currently is at 20% parole eligibility would be increased to 85% parole eligibility. Additionally, under current statute Class C Promoting Human Trafficking is 20% parole eligibility and Class D Promoting Human Trafficking is 15% parole eligibility. Both of these would also be increased to 85% parole eligibility under SB 210.

There are eight (8) incarcerated offenders, who, under current law are subject to 15 or 20% parole eligibility and who, if were to be convicted under SB 210, would be subject to 85% service.

Human Trafficking is listed as a sex crime under KRS 17.500. Under KRS 532.100 sex offenders with a sentence of two years or more will serve their sentence in a state prison rather than a county jail. While Promoting Human Trafficking is not included in statute as a sex crime, if classified as a violent offense, it is not likely these offenders would be housed in a county jail. The daily cost at a state prison is \$71.10 per day.

There would be a limited number of offenders convicted for human trafficking. However, even with a limited number, the increase to 85% parole eligibility will have substantial incarceration costs.

A Class B Felony sentence is 10 to 20 years.  
1 Class B Felon costs KY \$259,506.11 to \$519,012.22

10 Class B Felons cost KY \$2,595,061.12 to \$5,190,122.23  
100 Class B Felons cost KY \$25,950,611.17 to \$51,901,222.33

A Class C Felony sentence is 5 to 10 years.  
1 Class C Felon costs KY \$129,753.06 to \$259,506.11

10 Class C Felons cost KY \$1,297,530.56 to \$2,595,061.12  
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.  
1 Class D Felon costs KY \$11,965.87 to \$59,824.36

10 Class D Felons cost KY \$119,648.71 to \$598,243.56  
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)

Under SB 210, Class D Promoting Human Trafficking would be a violent offense, but as it remains a Class D felony, under statute, the offender would serve a period of incarceration at a Class D jail facility at the cost of \$31.34 per day.

Under this legislation the period of incarceration until possible release to parole would be longer. With limited jail capacity, longer sentences do have an impact on the jail population.

As there are few convictions under this statute, the impact to county jails would be minimal.

#### **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:**

  
Deputy Commissioner, Kentucky Department of Corrections

**2/28/2019**

Date