

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 227 GA BR # 1455 DOC ID #: xxxx

BILL SPONSOR(S): Sen. W. Westerfield AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to abortion and declaring an emergency.

SUMMARY OF LEGISLATION: Create new sections of KRS Chapter 311 to prohibit a person from denying or depriving an infant of nourishment with the intent to cause or allow the death of an infant; prohibit a person from denying or depriving an infant of medically appropriate and reasonable medical care, medical treatment, or surgical care; require a physician performing an abortion to take all medically appropriate and reasonable steps to preserve the life and health of a born alive infant; provide that a born alive infant shall be treated as a legal person under the laws of the Commonwealth; specify that any born alive infant, whose parents declare they do not want to keep the infant, shall immediately upon birth become a ward of the Cabinet for Health and Family Services; prohibit any person from performing scientific research on a born alive infant; specify that this section shall not be construed as preventing an infant's parent or guardian from refusing medical care that is not medically necessary; specify that the parent or guardian of a born alive infant shall not be held criminally or civilly liable for the actions of a physician, nurse, or other healthcare provider that acted without his or her consent; provide for civil and administrative penalties for violations of this Act; allow for severability; allow the General Assembly by joint resolution to appoint members to intervene as a matter or right in any case that challenges the constitutionality of this Act; amend KRS 311.595, 311.850, 314.091, and 315.121 to suspend or revoke the license of any physician, physician's assistant, nurse, or pharmacist who violates this Act; amend KRS 311.990 to establish criminal penalties for violations; establish the short title of "Born Alive Infant Protection Act"; EMERGENCY.

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) . | |

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)

SB 227, the Born Alive Infant Protection Act, prohibits the deprivation of an infant from nourishment with the intent to cause or allow the death of the infant or medically appropriate care or treatment. Physicians performing an abortion are expected to preserve the life and health of an infant born alive. Civil liability and professional licensing standards are included.

KRS 311.990 is amended (reflecting both statutory wording to be effective until July 1, 2019, and wording effective as of July 1, 2019) to include a Class D felony for a medical healthcare provider who violates the provisions in this legislation. Also prohibited as a Class D felony is subjecting a born alive infant to scientific research or experimentation except as necessary to protect and preserve life and health.

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 \$119,648.71 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)

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 incarceration stemming from this legislation would be, at most, minimal.

Projected 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:  2/27/2019
Deputy Commissioner, Kentucky Department of Corrections Date