

# CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 237 Introduced BR # 1778 DOC ID #: xxxx

BILL SPONSOR(S): Sen. B. Smith AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to indecent exposure.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 510 to create the offense of aggravated indecent exposure; amend KRS 194A.380 to conform.

**AMENDMENT:** .

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

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|--|--|
| <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)

SB 237 creates the crime of aggravated indecent exposure. Aggravated Indecent Exposure is the intentional exposure of genitals for sexual gratification to a minor child. Aggravated Indecent Exposure is a Class A misdemeanor for a 1<sup>st</sup> Offense and a Class D felony for a 2<sup>nd</sup> or Subsequent Offense.

Aggravated Indecent Exposure is added to KRS 194A.380 under KRS Chapter 194A for the Cabinet for Health and Family Services as a sex crime.

KRS 510.148, Indecent Exposure 1<sup>st</sup> Degree, is the intentional exposure of genitals under circumstances in which he knows or should know that the conduct is likely to cause affront or alarm to a minor child. Indecent Exposure 1<sup>st</sup> Degree is a Class B misdemeanor for a 1<sup>st</sup> Offense, a Class A misdemeanor for a 2<sup>nd</sup> Offense committed within three (3) years, a Class D felony for a 3<sup>rd</sup> or Subsequent Offense committed within three (3) years.

KRS 510.150, Indecent Exposure 2<sup>nd</sup> Degree, is the intentional exposure of genitals under circumstances in which he knows or should know that the conduct is likely to cause affront or alarm to an adult. Indecent Exposure 2<sup>nd</sup> Degree is a Class B misdemeanor.

As a Class D offender, since this offense would qualify as a sex crime under KRS 17.500, service of an incarceration sentence would, under KRS 532.100, be based on the length of sentence. Offenders with less than two (2) years to serve would be housed in a county jail detention facility at a cost to the state of \$31.34 per day to the local jail. Offenders with a sentence of two (2) years or more will be housed at a state prison facility at a cost of \$71.10 per day.

Currently the Department of Corrections has sixteen (16) offenders incarcerated or on supervision for Indecent Exposure 1<sup>st</sup> Degree and eight (8) offenders on supervision for Indecent Exposure 2<sup>nd</sup> Degree.

AOC records indicate ninety (90) convictions for Indecent Exposure 1<sup>st</sup> Degree and eighty (80) convictions for Indecent Exposure 2<sup>nd</sup> Degree in FY2018

The number of convictions which would be generated under this legislation would likely be few in number, with a minimal impact to incarceration.

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 may be housed in a county jail as a state inmate. This provides additional revenue for jails.

This legislation also establishes a Class A misdemeanor. Misdemeanors are subject to the jurisdiction and cost of the county.

While the number of offenders convicted of this offense are likely to be few, in times of current overcrowding any additional incarceration has an impact on the occupancy of jail beds.

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


A Class A misdemeanor is 90 days to 1 year in jail. 10 Class A misdemeanants: \$28,206.00 to \$114,391.00  
1 Class A misdemeanant: \$2,820.60 to \$11,439.10 100 Class A misdemeanants: \$282,060.00 to \$1,143,910.00

**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