

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 70 SCS 1 BR # 105 DOC ID #: SB007040.100 - 105 - 2812

BILL SPONSOR(S): Sen. A. Kerr, M. McGarvey AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to strangulation.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 508 to create the crime of strangulation, provide that strangulation is a Class D felony; amend KRS 403.720 to include the offense of strangulation as one of the offenses considered domestic violence and abuse; amend KRS 456.010 to include the offense of strangulation as one of the offenses considered dating violence and abuse; amend KRS 456.020 to conform.

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 70 creates a new Class D offense for Strangulation. Strangulation occurs when a person without consent, knowingly impedes the 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 is a Class D felony unless the conduct is covered under another provision of law providing a greater criminal penalty. Strangulation is added to the definition of domestic violence and abuse under KRS 403.720 and KRS 456.010, added as a definition in KRS 456.010, and added as an offense for data collection under KRS 456.020.

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.

A percentage of acts currently charged as misdemeanor domestic violence offenses under current statute could be charged as Strangulation under the proposed bill, 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 Class D offense is not expected to have a significant impact on incarceration costs.

Senate Committee Substitute:

Under the Committee Substitute, “knowingly” impeding normal breathing is changed to “wantonly” impeding the normal breathing or circulation of blood. Applying pressure on the torso of another person is added as an element of the offense of strangulation.

The Committee Substitute widens the application for this offense. It is not possible to estimate the additional number of strangulation offenders that would be generated based on the Committee Substitute. Overall, however, the expected impact to incarceration from the bill remains the same.

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)

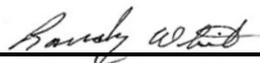
Offenders convicted under this legislation would be a Class D felon housed in a county jail as a state inmate. This provides additional revenue for jails. However, in times of current overcrowding any additional incarceration has an impact on the occupancy of jail beds.

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

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:  **2/8/2019**
Deputy Commissioner, Kentucky Department of Corrections Date