

## CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 9 GA BR # 93 DOC ID #: BR009300.100- 93- 1493v

BILL SPONSOR(S): Sen. Castlen AMENDMENT SPONSOR(S): . .

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

**SUMMARY OF LEGISLATION:** Create new sections of KRS Chapter 311 to require a person who intends to perform an abortion to determine whether the unborn human individual has a detectable fetal heartbeat; prohibit a person from performing an abortion before determining whether the unborn human individual has a detectable fetal heartbeat; prohibit a person from performing an abortion after the detection of a fetal heartbeat; provide exceptions for medical emergencies; require documentation of whether an abortion was performed to preserve the health of the pregnant woman; specify that nothing in the Act restricts access to contraceptives; allow a woman to file a civil action for the wrongful death of her unborn child; require the Cabinet for Health and Family Services to inspect the medical records of a facility that performs abortions to ensure compliance with reporting requirements; permit the Attorney General to apply to a state or federal court for a declaration that the Act's provisions are constitutional, or an order lifting an injunction if one exists, if federal abortion law changes; amend KRS 311.595 to allow the Kentucky Board of Medical Licensure to suspend or revoke the license of any physician for violations; amend KRS 311.990 to establish criminal penalties for violations; amend KRS 213.101 to expand the statistical reporting system for abortions; allow for severability; EMERGENCY.

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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)

This legislation prohibits abortions if the unborn individual has a detectable fetal heartbeat. Exceptions, related regulations, and governance are covered within the legislation.

KRS 311.990 is modified (reflecting both language effective until July 1, 2019 and language effective July 1, 2019) to establish a Class D felony for intentionally performing or inducing an abortion on a pregnant woman before determining whether the unborn human individual has a detectable fetal heartbeat, as well as Class D felony for intentionally performing or inducing an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn individual where fetal heartbeat has been detected.

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

**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:**  1/9/2019  
Commissioner, Kentucky Department of Corrections Date