

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 203 Introduced BR # 106 DOC ID #: xxxx

BILL SPONSOR(S): Rep. R. Wiederstein AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to juvenile competency in status and public offenses.

SUMMARY OF LEGISLATION: Create new sections of KRS Chapter 610 to create a minimum age of criminal responsibility of 12 years of age; establish rules relating to the court's treatment of developmental immaturity, mental illness, and intellectual disability; amend various sections to conform.

AMENDMENT: .

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 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) | |

Otherwise impacts incarceration (Explain) Establish 12 years of age as the minimum age of criminal responsibility.

STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$75.91. Community Custody Class C and most Class D felons are housed in one of 77 full service jails for up to 5 years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$36.70 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included). *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The legislation establishes twelve (12) years of age as the minimum age of criminal responsibility. Individuals under the age of eleven (11) shall not be charged for an offense. Individuals age eleven (11) to fourteen (14) shall be presumed incompetent to be adjudicated, though subject to rebuttal. Individuals age fourteen (14) and older are presumed competent to be adjudicated, unless established otherwise.

The legislation establishes procedures to determine developmental immaturity, mental illness, or intellectual disability impacting competency. Provisions are made for psychiatric evaluation and commitment for psychiatric care. Different paths are identified depending on whether the individual is or is not likely to attain future competency.

KRS 610.030 provides instruction to court-designated workers for individuals under the age of eleven (11), prohibiting action on the complaint and referring the case to a Family, Accountability, Intervention, and Response (FAIR) team. KRS 602.035 adds these cases to the FAIR team for case management.

This legislation would primarily affect youth detention and the Department of Juvenile Justice (DJJ). Department of Juvenile Justice records indicate a limited number of offenders age thirteen (13) and under: seventy-five (75) in 2017, seventy-five (75) in 2018, and sixty-one (61) in 2019.

The bill creates additional processes in juvenile matters to examine a youth's mental condition. The competency evaluations could create longer detention timeframes for youth as they await evaluation by the prosecutor and the youth's attorney pending the adjudication. It currently costs DJJ an average of \$461.84 per day to house a youth in detention, when factoring in operating expenses and staff pay. Utilizing the current detention population, for every day that the average length of stay in detention is increased, the cost is \$75,742.

The impact to the Department of Corrections would be limited to individuals placed in Department of Corrections' care as youthful offenders (under KRS 635.020 and KRS 635.025) or under court order to be supervised by the Department of Corrections as part of a pre-trial diversion program (under KRS 533.250 and KRS 533.262).

Currently Department of Corrections supervises sixteen (16) juvenile offenders, of which, four (4) are on parole as youthful offenders and twelve (12) are on pretrial diversion supervision. Ages for these juveniles range from age fifteen (15) to seventeen (17).

The impact to the Department of Corrections under HB 203 would be very minimal, however, there is a substantial impact for the Department of Juvenile Justice.

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. Since the per diem is an estimated average cost of housing an inmate, the per diem may not be the actual housing cost for the jail. *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

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 - Dept. of Juvenile Justice

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: Kathleen M. Keavy **1/30/2020**
Commissioner, Kentucky Department of Corrections Date