

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 268 Introduced BR # 1292 DOC ID #: xxxx

BILL SPONSOR(S): Rep. D. Elliott AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to the protection of Kentucky's adults.

SUMMARY OF LEGISLATION: Amend KRS 381.230 to establish a simplified method for elderly or vulnerable adults to petition for an order to prevent or restrain other persons from trespassing onto the petitioner's residence; create a new section of KRS Chapter 209 to clarify abuse of an adult and establish penalties; clarify exploitation of an adult and establish penalties; restate neglect of an adult and establish penalties; amend KRS 209.990 to delete existing penalties for abuse, exploitation, and neglect; amend KRS 209.020 to define terms; create a new section of KRS Chapter 209 to create a rebuttable presumption that transfers of real or personal property made by protected adults and not supported by adequate consideration were made under undue influence.

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 |
- Changes elements of offense for existing crime(s)
 Otherwise impacts incarceration (Explain) *Moves and restates specific offenses and penalties.*
-

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 seventy-seven (77) full service or regional jails for up to five (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 amends KRS 381.230 creating a process for individuals age fifty-five (55) and older to prevent trespassing upon their property. Definitions are added under KRS 209.020 to accompany new statutory language protecting adults from undue influence to transfer real estate, personal property, or money.

The current penalties for Abuse/Neglect/Exploitation an Adult under KRS 209.990 are deleted with offenses moved and defined in a new KRS under Chapter 209. The penalties remain the same as under current statute.

The offense of abuse of an adult occurs when an individual causes physical or mental injury to an adult, causes unreasonable confinement, intimidation, or punishment of an adult, or commits Sexual Abuse 1st Degree, 2nd Degree, or 3rd Degree (KRS 510.110, KRS 510.120, KRS 510.130).

Abuse of an Adult is a Class C felony if committed knowingly, a Class D felony if committed wantonly, or a Class A misdemeanor if committed recklessly.

The offense of exploitation of an adult occurs when an individual, by deception or intimidation, obtains or uses an adult's resources with the intent to deprive them of those resources.

Exploitation of an Adult is a Class C felony if committed knowingly and totals more than \$300, a Class D felony if committed wantonly or recklessly for an amount over \$300, or a Class A misdemeanor if committed knowingly, wantonly or recklessly and the amount is \$300 or less.

The offense of neglect of an adult occurs when an individual deprives an adult of goods, services, care or treatment necessary to maintain health or welfare, or causes or permits someone else to deprive the adult.

Neglect of an Adult is a Class C felony if committed knowingly, a Class D felony if committed wantonly, or a Class A misdemeanor if committed recklessly.

Class C offenders who are not community custody eligible would serve their sentence in a prison facility at a cost of \$75.91. Community custody Class C and Class D offenders would serve their sentence in a county detention center at a cost of \$36.70 to the state.

Currently the Department of Corrections has fifty-seven (57) inmates for convictions under KRS 209.990: forty (40) are Class C, sixteen (16) are Class D, and one (1) is a misdemeanor. Additionally, there are 295 offenders on supervision with convictions under KRS 209.990: 150 are Class C, 136 are Class D, and nine (9) are misdemeanors.

AOC records for FY2019 indicate 516 convictions under KRS 209.990, ninety-six (96) of which are for misdemeanor offenses and 420 are for felony offenses.

The legislation is not expected to change the current rates of incarceration for these offenses.

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,385,413.59 to \$2,770,827.17
1 Class C Felon costs KY \$138,541.366 to \$277,082.72	100 Class C Felons cost KY \$13,854,135.86 to \$27,708,271.72
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$133,969.74 to \$669,848.70
1 Class D Felon costs KY \$13,396.97 to \$66,984.87	100 Class D Felons cost KY \$1,339,697.40 to \$6,698,487.00

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)

County detention centers would receive a \$31.34 daily reimbursement for housing offenders serving a state sentence.

Misdemeanors are subject to the jurisdiction and cost of the county.

The legislation will not have an impact on local incarceration.

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: Karen M. Keagy **1/30/2020**
 Commissioner, Kentucky Department of Corrections Date