

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 284 SCS 1 BR # 809 DOC ID #: HB028460.100 - 809 - 79522 - 7064

BILL SPONSOR(S): Rep. D. Lewis, J. Petrie, C. Booker, R. Bridges, G. Brown Jr, R. Goforth, A. Hatton, N. Kulkarni, S. Maddox, C. Massey, K. Moser, M. Sorolis, S. Westrom

TITLE: . AN ACT relating to probation program credits.

SUMMARY OF LEGISLATION: Create a new section of KRS 439.250 to 439.560 to establish probation program credits; amend KRS 439.250 to conform.

AMENDMENT: Specify that the Department of Corrections shall notify, no less than 90 days before final discharge, the sentencing court of probation program credits awarded and the period of supervision reduced by the probation program credits; provide that supervised individuals on supervision prior to effective date of this Act shall be accruing probation program credits the first day of the first month after the effective date of this Act; amend KRS 533.020 to conform.

AMENDMENT: Specify that probation program credits for work-for-time only apply to public employment and that the credits shall reduce the period of supervision ordered by the sentencing court; amend KRS 439.3108 to allow those incarcerated as a graduated sanction to be placed on work release for work at their place of employment; amend KRS 439.341 to change a preliminary revocation hearing to a probable cause revocation hearing; amend KRS 439.352 to apply the statute to supervised individuals on parole or other post-release supervision; amend KRS 439.440 to allow any prisoners returned to state custody to be heard by the parole board within 60 days; amend KRS 439.3106 to conform.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

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| <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 checked="" type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input checked="" type="checkbox"/> Increases inmate/offender services |
| <input checked="" type="checkbox"/> Increases staff time or positions | <input checked="" type="checkbox"/> Reduces staff time or positions |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input checked="" type="checkbox"/> Otherwise impacts incarceration (Explain): <i>Creates probation program credits.</i> | |

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)

This legislation provides for the application of program sentence credits for court supervised probationers in the same way that parolees receive credit off of their sentence for completion of programs. The legislation establishes a definition for probation program credit under KRS 439.250 and modifies wording for the definitions of supervised compliance credit and a supervised individual.

Ninety (90) days sentence credit shall be awarded for completing an educational program (such as GED, other diploma or degree, or vocational/technical education program). Credit in the amount up to ninety (90) days shall be applied for completion of an approved drug treatment program, evidence based program, life skills, or promising practice program.

The legislation also authorizes work for time credit in accordance with KRS 197.047, which authorizes one (1) day of sentence credit for forty (40) hours worked.

The application of program credit provides for shortened supervision periods, which reduces the cost to supervise as well as lightening the workload for the Division of Probation & Parole.

Currently the Kentucky Department of Corrections Division of Probation & Parole actively supervises 19,107 offenders on felony probation supervision, 2,396 offenders on misdemeanor probation, 3,103 offenders on shock probation, and an additional 11,163 offenders on pretrial diversion. (Note: There are an additional 8,896 court ordered offenders on in-active reporting status who would also be eligible to earn program and work for time credit under this legislation.)

Of the active supervised population, 17,935 court ordered offenders report verifiable employment. (Note: Number does not reflect the in-active population, or those offenders who are disabled, retired, stay at home mothers, students, incarcerated, or in substance abuse treatment programs.) If these offenders earned four and half (4.5) days per month work for time credit, at a cost to supervise of \$3.88 per day, the annual cost avoidance to the state would be estimated at \$3,757,741.20.

In 2019, 1,534 court ordered offenders completed an evidence based or life skills program which would be eligible for ninety (90) program days credit under the legislation. At a cost to supervise of \$3.88 per day, the cost avoidance to the state would be estimated at \$535,672.80 in days less supervised.

Given the large volume of probation program and work for time credit that would be expected, Offender Information Services would need additional staff to oversee the application of sentence credits for the probation population. The cost of one (1) offender information specialist is \$62,000. Additionally, the Division of Addiction Services would require additional staffing for program review. The cost of one (1) social service clinician is \$84,000.

Application of sentence credits provides an incentive for offenders to participate in employment and programming. In addition to the benefit of supporting offender growth and re-entry, sentence credits for the court ordered population would provide a significant savings in reduced length of time on supervision. The earlier release of supervised individuals would lower caseload numbers and allow the Division of Probation & Parole to focus their limited resources on offenders who are non-compliant or high risk.

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 House Committee Substitute requires the Department to provide notice to the court no less than ninety (90) days prior to the projected date of expiration of supervision, advising the court of the number of probation credits awarded and the resulting upcoming expiration date. If there is no additional action by the court, the offender shall be discharged from supervision accordingly. The Committee Substitute also provides a mechanism for individuals currently on probation supervision to begin earning employment and program credit after passage of the legislation. Modification to KRS 533.020 supports the modification of the probationary term due to the application of probation program credits.

Under the House Committee Substitute, there is an additional reporting requirement for the Department. There is no substantial change to the estimated impact to supervision or incarceration under the Committee Substitute.

HB 284 passed the House with the House Committee Substitute.

The Senate Committee Substitute adds several provisions to the legislation. KRS 439.3106 and KRS 439.341 change wording from "preliminary revocation hearing" to "probable cause revocation hearing". KRS 439.3108 allows work release for parole violators in custody for graduated sanctions in lieu of revocation. This provides for the imposition of a sanction in response to violations, which allowing the offender to maintain employment. Additionally, the timeframe for graduated sanctions under

Subsection 6 is corrected to conform with timeframes outlined in Subsection 1. KRS 439.352 provides for the automatic recommitment of mandatory reentry supervision offenders who receive a new felony conviction in the same way that statute currently provides for the automatic recommitment of parole violators who receive new felony convictions. In addition to providing a small reduction in workload, this provides more accurate tracking for individuals returned to custody based on the new criminal activity. And KRS 439.440 expands the timeframe for final parole violation hearings from thirty (30) to sixty (60) days. The expansion allows for compliance to changes to the parole violation hearing process stemming from a recent court decision. The initial probable cause hearing remains within the current timeframe.


Overall, the Senate Committee Substitute contains updates to statute wording and reflects operations for the Department. There is no additional fiscal impact stemming from the Senate Committee Substitute.

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:



Commissioner, Kentucky Department of Corrections

3/16/2020

Date