

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 525 Introduced BR # 2103 DOC ID #: xxxx

BILL SPONSOR(S): Rep. T. Branham Clark AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to crimes and punishments.

SUMMARY OF LEGISLATION: Amend KRS 439.250 to define "technical violation"; amend KRS 439.315 to provide that failure without good cause to pay an installment pursuant to a release agreement is a technical violation; specify that willful nonpayment of fees is a technical violation and grounds for revocation; amend KRS 439.341 to require preliminary hearings for supervised individuals who have been detained for a technical violation to be conducted within 15 days of detainment; require a show cause hearing to be held to extend the period of detainment beyond the 15 days; prohibit the period of detainment pending final revocation to exceed revocation caps; amend KRS 439.430 to allow a summons to be issued in lieu of a warrant for a technical violation; require a preliminary hearing and revocation hearing to be conducted before a parolee can be revoked; require the final revocation hearing to be conducted within 30 business days of the date of the preliminary hearing; limit the term of imprisonment that can be imposed for a technical violation to up to 30 days for the first revocation, up to 90 days for the second revocation, up to 180 days for the third revocation, and up to 2 years for the fourth and subsequent revocation; amend KRS 439.553 to require graduated sanctions to be used in response to technical violations; amend KRS 532.260 to allow graduated sanctions to be used in response to technical violations committed while on home incarceration; amend KRS 533.050 to require a final revocation hearing to be held within 30 business days of the preliminary hearing; prohibit individuals detained pending a final revocation hearing from being held beyond the maximum time that can be revoked for a technical violation; limit the term of imprisonment that can be imposed for a technical violation to up to 30 days for the first revocation, up to 90 days for the second revocation, up to 180 days for the third revocation, and up to two years for the fourth and subsequent revocation; amend KRS 439.3107 and 533.020 to conform; repeal KRS 439.440; EFFECTIVE January 1, 2021.

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 checked="" type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input checked="" 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 \$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)

Section 1 (KRS 439.250) of HB 235 modifies the definition of supervised individual and adds a definition for technical violations. A technical violation is defined as any violation of conditions of community supervision other than a new conviction or absconding.

Section 2 (KRS 439.3107) requires a system of graduated sanctions for technical violations for offenders on parole or post-release supervision by January 1, 2021.

Section 3 (KRS 439.315) inserts willful nonpayment of fees as a technical violation.

Section 4 (KRS 439.341) requires that if an offender is detained on a technical violation, a preliminary revocation hearing shall be held within fifteen (15) business days of the date of detainment. A show cause hearing can extend the period of detainment, however, the length of time cannot exceed the maximum period of incarceration for a technical violation as established by the legislation. If a hearing is not held within the timeframe, the individual shall be released from custody and continued on supervision.

Section 5 adds graduated sanctions to KRS 439.430. Language is added providing for the Parole Board to issue a summons in lieu of a warrant for a technical violation. The legislation states the Parole Board shall only revoke post-incarceration offenders after a preliminary hearing finds probable cause and a final revocation hearing is held. If an offender is arrested on a warrant and detained for a technical violation, a final revocation hearing shall be held within thirty (30) business days of the date of the preliminary revocation hearing. A show cause hearing can extend the period of detainment, however, the length of time cannot exceed the maximum period of incarceration for a technical violation as established by the legislation. If a final hearing does not occur within that timeframe, the individual shall be released from custody and continued on supervision.

This section also establishes a series of revocation caps for technical violations as follows:

<u>Revocation</u>	<u>Impose a term of imprisonment of not more than:</u>
1 st Technical Violation	30 days
2 nd Technical Violation	90 days
3 rd Technical Violation	180 days
4 th and Subsequent Technical Violation	2 years

Section 6 (KRS 439.553) requires the court to impose graduated sanctions for technical violations. Current statute wording is permissive.

Section 7 (KRS 532.260) allows graduated sanctions for home incarceration inmates in accordance with KRS 439.3108.

Section 8 (KRS 433.020) conforms.

Section 9 (KRS 533.050) states the court shall only modify or revoke offenders after a hearing is held. If an offender is arrested on a warrant and detained for a technical violation, a final revocation hearing shall be held within thirty (30) business days of the date of the preliminary revocation hearing. A show cause hearing can extend the period of detainment, however, the length of time cannot exceed the maximum period of incarceration for a technical violation as established by the legislation. If a final hearing does not occur within that timeframe, the individual shall be released from custody and continued on supervision.

This section then establishes a series of revocation caps for probation technical violations in the same timeframe as Section 5.

Section 10 repeals KRS 439.440 Prisoner returned to prison for violation of release to be heard by board -- Time.

Section 11 sets the effective date of the legislation as January 1, 2021.

It should be noted that the provision for revocation caps does not contain an exception for the type of offense or nature of the violation. Of current offenders on probation supervision, 2% are sex offenders or violent offenders. Of the offenders currently on parole or post-release supervision, 8% are sex offenders and 8% are violent offenders.

Of the court ordered offenders who incurred violations in 2019, 44% received graduated sanctions prior to revocation. Of the violations incurred, 32% were absconders, 35% had drug/alcohol or substance abuse treatment related violations, 26% had other technical violations, 4% received new misdemeanor convictions, 2% received new felony convictions, 1% had weapons violations, and less than 1% had sex offender related violations.

Of the parole and post release offenders who incurred violations in 2019, 43% received graduated sanctions prior to revocation. Of the violations incurred, 45% were absconders, 29% had drug/alcohol or substance abuse treatment related violations, 18% had other technical violations, 3% received new misdemeanor convictions, 2% received new felony convictions, 2% violated sex offender supervision, and 1% had weapons violations.

The overall reduction of offenders entering prison by way of violations would have a significant impact on the inmate population.

If violators are released back to supervision via a revocation cap, the savings in incarceration costs would be substantial.

In 2019, of those offenders recommended for revocation, 7,030 offenders were ultimately revoked. The average amount of time they served in custody before release was 126 days.

If 25% of these revocations (1,757.50) were subject to 30 days incarceration under a 1st revocation cap rather than serving an average of 126 days after revocation, (using the jail daily cost to incarcerate of \$36.70) the cost savings would be \$6,192,024.00. If a further 25% of violators were subject to the 2nd revocation cap of 90 days rather than serving an average of 200 days after revocation, the cost savings would be an additional \$2,322,009.00.

A reduction in the number of violations requiring revocations by the Parole Board would reduce the Board's workload related to violation proceedings, however, the tighter time frames for the completing revocation process would require additional staffing and resources to complete hearings in the timeframe outlined by the legislation.

The timeframes established by the legislation are likely to impact court dockets as well.

It is anticipated the bill would require additional Offender Information Services staff to calculate the parole violation calculations in the short time frame. Additionally, the bill would require some changes to the offender management system with associated software development costs.

Many offenders who currently receive substance abuse treatment while incarcerated, under this legislation, would remain in the community with treatment needs. This may require additional resources and staffing to provide for clinical services and treatment related to substance abuse in the community.

The legislation would also have an effect on caseload size for the Division of Probation & Parole, with additional offenders remaining on supervision who would require elevated levels of supervision, monitoring, and services. Caseload ratios and high criminogenic need offenders may also require additional resources and staffing at the community level.

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)

Reducing the number of offenders incarcerated, including those who are incarcerated due to a violation or as the result of revocation would have an impact on the population of local county detention centers. Currently a significant percentage of the state inmate population are housed in a county jail facility, either held as a violator or serving a state sentence of incarceration.

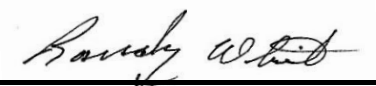
Population reductions would reduce the opportunity for revenue, but also provide a significant relief for county detention facilities currently experiencing overpopulation.

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:  3/20/2020
Commissioner, Kentucky Department of Corrections Date