

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 139 Introduced BR # 1540 DOC ID #: xxxx

BILL SPONSOR(S): Sen. R. Webb AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to nonsupport.

SUMMARY OF LEGISLATION: Amend KRS 530.050 to raise the amount qualifying for flagrant nonsupport from \$1,000 to \$10,000 and raise the time period of flagrant nonsupport from 6 months to 12 months; specify lower the service time for a person jailed for nonsupport on a second or subsequent offense and that work release shall be permitted.

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 checked="" 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 type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input checked="" 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)

The legislation modifies the criminal offense of flagrant non-support under KRS 530.050, moving the arrearage amount from \$1,000 to \$10,000 and moving from six (6) months to twelve (12) consecutive months without payment of support. Language is removed determining the minor dependent to be in destitute circumstances through the receipt of public assistance. Flagrant nonsupport is a Class D felony.

Nonsupport is a Class A misdemeanor. For the second offense, work release is added to the minimum seven (7) day jail sentence. The minimum sentence for third or subsequent offenses is moved from thirty (30) to fifteen (15) days in jail with work release.

Currently the Department supervises 3,778 offenders for failure to pay child support. All are felony Flagrant Non-Support cases except for forty-seven (47) misdemeanor Non-Support cases. There are 721 current inmates with convictions for Flagrant Non-Support (*note: offender may be serving on multiple indictments*).

AOC records for 2019 indicate 3,233 Flagrant Non-Support and 606 Non-Support convictions.

While incarcerated, child support offenders are not paying toward child support obligations. While under community supervision, there is little recourse if the offender is non-compliant with child support payments.

Under an appellate court decision, child support arrearage is considered as restitution. As such, under KRS 439.563, Flagrant Non-Support offenders are subject to continued supervision past expiration of sentence and cannot be discharged from parole with child support arrearage.

Movement of the arrearage amount would significantly reduce the number of convictions for Flagrant Non-Support. A higher threshold amount would indicate a larger arrearage amount for offenders working to pay off the balance. The

Department does not track the monetary amount of child support owed and thus cannot estimate how many offenders would be affected by such an amount change.

This legislation would have a significant impact on the Department of Corrections Division of Probation & Parole by increasing the threshold amount and thus removing felony level convictions for a number of failure to pay child support cases. The removal of a felony conviction removes challenges related to obtaining employment and other reentry barriers. Additionally, removal of community supervision for these non-violent offenders would allow more resources to be applied in the supervision of high-risk non-compliant individuals.

A Class D Felony sentence is 1 to 5 years.
1 Class D Felon costs KY \$13,396.97 to \$66,984.87

10 Class D Felons cost KY \$133,969.74 to \$669,848.70
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)

As a Class D offender, offenders subject to incarceration for Class D Flagrant Non-Support would serve their sentence in a county jail at a cost to the state of \$36.70 per day, with \$31.34 daily reimbursement to the local detention center.

Non-Support is a misdemeanor subject to the jurisdiction and cost of the county.

Under the legislation there would be significantly fewer felony offenders for failure to pay child support, which may elevate the number of misdemeanor offenses. However, use of incarceration for child support cases is often limited.

The impact on local incarceration from the changes to the offense of Flagrant Non-Support under this legislation would not be expected to be significant.

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$2,820.60 to \$11,439.10

10 Class A misdemeanants: \$28,206.00 to \$114,391.00
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:



Deputy Commissioner, Kentucky Department of Corrections

2/24/2020

Date