

# CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 142 Introduced BR # 1278 DOC ID #: xxxx

BILL SPONSOR(S): Sen. J. Adams AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to cruelty to animals.

**SUMMARY OF LEGISLATION:** Amend KRS 525.130 to change mental state to knowing or reckless; delete domestic animal killed by poisoning; add requirements of legal food processing, customary veterinary practices performed by a licensed veterinarian, horse racing not governed by federal law, reasonable defense, and accepted animal or pest control practices; add requirement of legality for animals hunting; strike language regarding "equine" under penalty portion and allow costs for any animal; amend KRS 525.135 to define "physical injury" and "reasonable costs"; add knowing or reckless to mental state; delete misdemeanor Class A language; add requirement for customary veterinary practices performed by a licensed veterinarian and reasonable defense; add language for penalties the court may impose; create a new section of KRS Chapter 525 to create crime of "extreme neglect" and make it a Class D felony; define "extreme neglect," "physical injury," and "reasonable costs"; create exemptions and establish penalties court may impose.

**AMENDMENT:** .

---

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Creates new crime(s)                    | <input type="checkbox"/> Repeals existing crime(s)               |
| <input checked="" 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)  |  |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) .        |  |
- 

**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 mental state for animal cruelty under KRS 525.130 from intentional and wanton to knowing and reckless. Current language relating to poisoning of a cat or dog is deleted. Subsection (5) removes specification to an equine, widening application to other animals. Cruelty to Animals 2<sup>nd</sup> Degree is a Class A misdemeanor.

In FY2019, AOC reported 972 convictions for Cruelty to Animals 2<sup>nd</sup> Degree. Currently the Department of Corrections has seventeen (17) offenders on supervision for Cruelty to Animals 2<sup>nd</sup> Degree.

Under KRS 525.135 definitions for physical injury and reasonable cost are added. Wording for knowing and reckless are added to mental state. The misdemeanor option for Torture of Cat or Dog is deleted, leaving the Class D felony penalty. Additional penalties are added for restitution and termination or conditions of ownership.

New wording is added defining extreme neglect and establishing a new Class D felony offense of extreme neglect of a dog or cat. Extreme neglect includes physical injury, continued suffering, or death.

Under current statute Torture of a Dog or Cat is a Class A misdemeanor for a first offense and a Class D felony for subsequent offenses, and a Class D felony for serious physical injury or death. SB 142 removes the misdemeanor offense, elevating the offense of Torture of Dog or Cat to a Class D felony.

AOC reflects eleven (11) convictions for this offense in FY 2019, one (1) for a misdemeanor and ten (10) for a felony.

Department of Corrections records reflect eight (8) inmates under Class D Torture of a Dog or Cat. Additionally, there are fourteen (14) offenders on community supervision under this statute, one (1) at the misdemeanor level and thirteen (13) for the felony offense.

Under the legislation, due to the removal of a misdemeanor offense, there would be an increase in felony convictions for Torture of Dog or Cat. Class D offenders would be housed at a county jail at a daily cost to the state of \$36.70.

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)

Under current statute, misdemeanor offenders with a conviction of Torture of a Dog or Cat are subject to county costs. Under the legislation, the penalty for Torture of Dog or Cat would be a felony conviction at a cost to the state. Class D offenders are housed at county detention facilities with the jail receiving \$31.34 daily reimbursement.

Misdemeanor Cruelty to Animals incarceration is subject to the cost of the county.

The expansion of the conduct that constitutes the offenses under the legislation could add to the overall number of offenders who are convicted of these offenses, though it is not possible to estimate the impact.

The change in Cruelty to Animals 2<sup>nd</sup> Degree, shift from misdemeanor to felony Torture of a Dog or Cat, and the application of the new offense of Extreme Neglect of a Dog or Cat is unlikely to significantly change the rate of incarceration.

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:** Kathleen M. Keavy **2/12/2020**  
Commissioner, Kentucky Department of Corrections Date