

# CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 161 GA BR # 1546 DOC ID #: xxxx

BILL SPONSOR(S): Sen. A. Kerr AMENDMENT SPONSOR(S): Sen. W. Schroder

TITLE: AN ACT relating to crimes and punishments.

**SUMMARY OF LEGISLATION:** Amend KRS 510.010 to define "registrant" and "adult intermediary"; amend KRS 510.155 to include communications with adult intermediaries for minors and enhance punishment if the minor or perceived minor is under 12 years old, the offender is a registered sex offender, or a person travels into the Commonwealth for the purpose of procuring or promoting the use of a minor.

**AMENDMENT:** Retain original provisions; include a person working in coordination with law enforcement as a part of an operation involving procuring or promoting the use of a minor for a prohibited activity.

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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 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 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 amends KRS 510.010 to add that a registrant has the same meaning as in KRS 17.500. A definition for adult intermediary is added as an adult who communicates with another for the purpose of procuring or promoting the use of a minor under KRS 510.155.

Under KRS 510.155 an additional offense is added for the procurement or promotion of the use of a minor from an adult intermediary. Language also includes a peace officer posing as an adult intermediary. It is further specified that each day a person knowingly uses a communications system for the purpose of procuring or promoting the use of a minor shall be a separate violation.

The offense shall be a Class D felony unless the minor is under the age of twelve (12), the offender is a registrant, or the individual enters Kentucky for the purpose of procuring or promoting the use of a minor, which will be a Class C felony.

Offenders convicted under the legislation would be identified as a sex offender under KRS 17.500, subject to sex offender registry, sex offender treatment, and sex offender postincarceration supervision.

As a sex offense, under KRS 532.100, Class D offenders would serve their offense in a state prison facility if the sentence is two (2) years or more. If the sentence is under two (2) years, placement would be at a county detention facility at a cost to the state of \$36.70 per day. The Class C offenders convicted under KRS 510.155 would serve their sentence in a prison facility at a daily cost of \$75.91.

The Department of Corrections records reflects 166 convictions under the Class D offense of KRS 510.155 for Prohibited use of Electronic Communications System to Procure Minor within the inmate population. There are an additional 108 convictions for this offense within the supervised population.

AOC records for FY 2019 indicate 111 convictions under KRS 510.155 (note: offenses stem from fifty-nine (59) cases).

It is not possible to determine how many convictions this legislation would generate. Offenders may incur either a Class D or a Class C level conviction. Overall, the overall impact to incarceration is expected to be minimal to moderate.

A Class C Felony sentence is 5 to 10 years.  
1 Class C Felon costs KY \$138,541.366 to \$277,082.72

10 Class C Felons cost KY \$1,385,413.59 to \$2,770,827.17  
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.  
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)

Class D offenders under KRS 510.155 with a sentence less than two (2) years 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.

While it is not known how many additional convictions would be incurred under this offense, given that only a portion would be subject to incarceration at a local detention center, the impact to local corrections under this legislation would be minimal.

**Projected Corrections Impact from Amendments:**

Senate Floor Amendment:

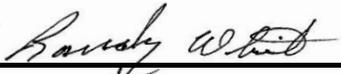
The Senate Floor Amendment adds wording for persons working in coordination with law enforcement either posing as a minor or posing as an adult intermediary for the purpose of procuring or promoting the use of a minor. There is no additional impact to state or local corrections under the Senate Floor Amendment.

SB 161 passed the Senate Floor with Senate Floor Amendment 1.

**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:**  **3/10/2020**  
Commissioner, Kentucky Department of Corrections Date