

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 242 Introduced BR # 2093 DOC ID #: xxxx

BILL SPONSOR(S): Sen. M. McGarvey, Sen. R. Thomas AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to human trafficking.

SUMMARY OF LEGISLATION: Amend KRS 439.3401 to include as violent offenders individuals convicted of promoting human trafficking; specify that individuals convicted of human trafficking or promoting human trafficking shall not be released on probation or parole until 85 percent of the sentence has been served.

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 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) . | |
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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 439.3401 to include Promoting Human Trafficking under KRS 529.110 to the violent offender statute and widen the application of Human Trafficking under KRS 529.100 as a violent offender. Under current statute, Human Trafficking is only a violent offense if it involves commercial sexual activity of a minor. Under this legislation, any level of Human Trafficking or Promoting Human Trafficking would be a violent offense, subject to 85% of the sentence being served prior to parole eligibility.

KRS 529.100 Human Trafficking is a Class C felony unless it involves serious physical injury to a victim, in which it is a Class B felony. The penalty range is one level higher if the victim is a minor, as well.

KRS 529.110 Promoting Human Trafficking is a Class D felony unless the victim of human trafficking is a minor, in which case it is a Class C felony.

AOC records for FY2019 indicate one (1) conviction for Class C Human Trafficking, one (1) conviction for Class B Human Trafficking with a Victim under the age 18, and eleven (11) convictions for Class C Promoting Human Trafficking Victim under the Age of 18.

The Department's records currently reflect one (1) offender incarcerated for Class D Promoting Human Trafficking and three (3) inmates for Class C Promoting Human Trafficking Victim under the age of 18 (KRS 529.110). There is one (1) inmate with a conviction for Class C Human Trafficking No Serious Physical Injury, and five (5) inmates for the Class B offense of Human Trafficking Victim under the age of 18 (KRS 529.100). There are currently no offenders incarcerated for Human Trafficking Serious Physical Injury, Victim under the age of 18.

Currently there is one (1) community supervision offender for the Class C offense of Human Trafficking, one (1) offender for Class D Promoting Human Trafficking, and one (1) offender for the Class C Promoting Human Trafficking Victim under the age of 18.

Class A Human Trafficking and Class B Human Trafficking with Serious Physical Injury would fall under the violent offender statute requiring 85% service of the sentence prior to parole eligibility. Under this statute, Class B & Class C Human Trafficking, which currently are at 20% parole eligibility, would be increased to 85% parole eligibility.

Additionally, under current statute Class C Promoting Human Trafficking requires 20% parole eligibility and Class D Promoting Human Trafficking is 15% parole eligibility. Both of these would also be increased to 85% parole eligibility under the legislation.

There are five (5) incarcerated offenders who, under current law, are subject to 15% or 20% parole eligibility and who, if convicted under the legislation, would be subject to 85% service.

Human Trafficking and Promoting Human Trafficking are sex crimes under KRS 17.500 only if involving commercial sexual activity against a victim who is a minor.

Class C Human Trafficking or Promoting Human Trafficking would not be eligible for placement at a county jail if the offense is such that would be a sex offense. As a violent offender under the legislation they would not likely be classified as Community Custody for placement in a county jail. The daily cost at a state prison is \$75.91 per day.

Class D Promoting Human Trafficking currently are housed at county detention facilities, and would continue to be housed as such if classified as violent under the legislation.

There would be a limited number of offenders convicted for human trafficking. However, even with a limited number, the increase to 85% parole eligibility would have substantial incarceration costs.

A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$2,770,827.17 to \$5,541,654.34
1 Class B Felon costs KY \$277,082.72 to \$554,165.43	100 Class B Felons cost KY \$27,708,271.72 to \$55,416,543.43
A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,385,413.59 to \$2,770,827.17
1 Class C Felon costs KY \$138,541.366 to \$277,082.72	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.	10 Class D Felons cost KY \$133,969.74 to \$669,848.70
1 Class D Felon costs KY \$13,396.97 to \$66,984.87	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 this legislation, Class D Promoting Human Trafficking would be a violent offense, but under statute, the offender would serve their incarceration at a county jail facility at the cost to the state of \$36.70 per day, with \$31.34 daily reimbursement to the local detention center.

Under the legislation the period of incarceration until possible release to parole would be longer. With limited jail capacity, longer sentences do have an impact on the jail population.

As there are few convictions under this statute, the impact to county jails would be minimal.

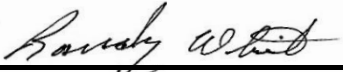
Projected Corrections Impact from Amendments:

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:  3/16/2020
Commissioner, Kentucky Department of Corrections Date