

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 148 GA BR # 985 DOC ID #: HB014810.100 - 459 - XXXX

**BILL SPONSOR(S):** Rep. C. McCoy, K. Banta, T. Bojanowski, J. Decker, R. Dotson, D. Elliott, S. Heavrin, T. Huff, J. Jenkins, N. Kulkarni, M. Marzian, J. Miller, P. Minter, K. Moser, P. Pratt, M. Prunty, N. Tate, K. Timoney, J. Tipton, S. Westrom, B. Wheatley, L. Willner

**AMENDMENT SPONSOR(S):** Rep. C. McCoy

**TITLE:** AN ACT relating to mental illness.

**SUMMARY OF LEGISLATION:** Amend KRS 532.130, 532.135, and 532.140 to add a diagnosis of serious mental illness to the disabilities which prevent execution for persons convicted of capital offenses.

**AMENDMENT:** Retain original provisions; amend the amount of days before trial that a defendant shall file a motion to 120 days; amend the amount of days before trial that the court shall rule on that motion to 90 days.

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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 type="checkbox"/> Increases penalty for existing crime(s)           | <input checked="" 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 \$80.24. 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 \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

This legislation adds serious mental illness as a factor which would prohibit an offender from being subject to execution under a capital offense. To be applicable, the defendant would have to have a manifest history of a specified serious mental illness at the time of offense. The legislation lists five (5) mental disorders that would be considered: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, and delusional disorder.

It is not known how many offenders would be precluded from a sentence of death under this legislation. Given the relatively small number of offenders receiving a capital conviction, it is noted that the number of offenders who would meet the criteria established in this legislation would be a smaller percentage of all capital convictions.

There are currently twenty-six (26) inmates on death row in Kentucky. It is assumed that if not receiving a sentence of death, a defendant targeted by this legislation may well be sentenced to life in prison.

Inmates currently under the death penalty have served an average of 28.5 years from the start of their incarceration. Kentucky has not had an execution in thirteen (13) years. Inmates who have been executed spent an average of twelve (12) years from incarceration until death. Male inmates with a sentence of death are housed at the Kentucky State Penitentiary, which has an average annual cost to incarcerate of \$36,948.41 per inmate. Female inmates with a sentence of death are housed at the Kentucky Correctional Institution for Women at an annual cost of \$32,455.25. Kentucky has one (1) female inmate under a sentence of death.

For the 727 inmates currently serving a sentence of life, the current average length of time served is 20.56 years (reflective of when the statute was changed). For inmates who have died while incarcerated serving on a life sentence, the average time served prior to death was 26 years.

For the 122 inmates currently serving a sentence of life without parole, the current average length of time served is 11.88 years (reflective of when the statute was changed). For inmates who have died while incarcerated serving on life without the possibility of parole, the average time served prior to death was 19.3 years.

The average annual cost to incarcerate offenders with a life sentence is \$29,287.75 per year. However, given the specific mental health needs of the offenders identified by this legislation, they would likely be housed in a mental health unit at a slighter higher cost of \$37,639.63 annually.

Additional savings to the state in a life sentence rather than a sentence of death would be cost avoidance associated with an execution, including lethal injection drugs, handling of the body (ambulance, coroner, crematorium, etc.), the execution team (training and overtime pay), and added security for the public, press, etc. Also eliminated would be costs the state bears for legal appeals available to death row inmates.

**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. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

**PROJECTED CORRECTIONS IMPACT FROM AMENDMENTS:**

House Floor Amendment: There is no impact to the Department of Corrections under the House Floor Amendment.

*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

**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, lengthens the term or incarceration, or impose new obligations on state or local governments.

**APPROVED BY:**  \_\_\_\_\_ **3/4/2021**  
Chief of Staff, Kentucky Department of Corrections Date