

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 215 Introduced BR # 1025 DOC ID #: xxxx

BILL SPONSOR(S): Rep. J. Nemes AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to animals.

SUMMARY OF LEGISLATION: Repeal and reenact KRS 525.135 to define terms; create new crimes of animal abuse in the first degree, animal abuse in the second degree, and aggravated animal abuse; create exceptions; create a new section of KRS Chapter 525 to authorize law enforcement and animal control officers to seize and hold animals who are victims of cruelty or abuse; create a civil cause of action for a seizing agency to seek forfeiture and reimbursement for reasonable costs of caring for seized animals from the owner of the animal during the pendency of the criminal case against the owner; create rules related to the custody of the seized animal; grant liability to an organization caring for the animal; create a new section of KRS Chapter 525 to grant civil immunity to a person who enters a car containing a dog or cat believed in good faith to be in danger of death, subject to certain parameters.

AMENDMENT: .

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

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| <input checked="" type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input 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 \$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)

The legislation modifies states relating to Animal Abuse by repealing and reenacting KRS 525.135 (Torture of a Dog or Cat) under Animal Abuse. The overall fiscal impact would be minimal to moderate.

- Creates Animal Abuse 1st Degree as a Class D felony and defines it as intentional, knowing, or reckless serious physical injury to a dog or cat.
- Creates Animal Abuse 2nd Degree as a Class A misdemeanor and defines it as intentional, knowing, or reckless physical injury to a dog or cat.
- Creates Aggravated Animal Abuse 1st Degree as a Class C felony and defines it as intentional or knowingly killing, extreme indifference to life causing death of the dog or cat, intentional torture, or intentional extreme neglect of a dog or cat.
 - This new Class C felony would also apply to someone who commits Animal Abuse 1st Degree and has previously been convicted of Cruelty to Animal 2nd Degree, Sexual Crimes against an Animal, Assault on a Service Animal 1st or 2nd Degree, or KRS 515.135 Torture of a Dog or Cat; commits the offense as part of domestic or dating violence; or commits the animal abuse in the presence of a minor child.

The Department of Corrections currently has ten (10) inmates serving on convictions for Cruelty to Animals, Torture of a Dog or Cat, Sexual Crimes against Animals, or Assault on a Service Animal. There are currently thirty-five (35) offenders on supervision for felony or misdemeanor levels of these offenses. AOC records reflect 365 convictions for these offenses for the past fiscal year. The convictions stem from 164 distinct cases.

The legislation includes a Class C level felony that does not currently exist under KRS 525.135. For example, there are currently two (2) inmates on a second offense which would, under the legislation, be elevated to the Class C Aggravated Animal Abuse. It is unknown how many additional occurrences under the KRS 525 offenses included here may be performed as part of domestic/dating violence or in the presence of a minor, etc., which would be elevated to the higher offense level.

- Class C offenders may be eligible to serve their sentences at the county jail if qualifying for community custody, based on length of sentence remaining and custody classification. Class C offenders not eligible for community custody serve the period of incarceration in a state prison at an average cost to incarcerate of \$80.24 per day.

The overall fiscal impact is difficult to predict, as is not known how many additional offenders could be expected under the revisions proposed under this legislation. However, the impact would be minimal to moderate.

Cost to Incarcerate

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| A Class C Felony sentence is 5 to 10 years. | 10 Class C Felons cost KY \$1,464,387.29 to \$2,928,774.58 |
| 1 Class C Felon costs KY \$146,438.73 to \$292,877.46 | 100 Class C Felons cost KY \$14,643,872.89 to \$29,287,745.77 |
| A Class D Felony sentence is 1 to 5 years. | 10 Class D Felons cost KY \$136,345.44 to \$681,727.22 |
| 1 Class D Felon costs KY \$13,634.54 to \$68,172.72 | 100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25 |

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)

Community Custody Class C and Class D offenders would serve their sentence in a county jail at an average cost to incarcerate of \$37.35 per day, with \$31.34 daily reimbursement to the local detention center.

Misdemeanors are subject to the jurisdiction and cost of the county.

The changes to the statute under this legislation would not significantly alter the number of individuals incurring misdemeanor criminal charges. There would not be expected to be a significant impact to incarceration at the local level under HB 215.

Cost to Incarcerate

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|---|---|
| A Class A misdemeanor is 90 days to 1 year in jail. | 10 Class A misdemeanants: \$33,619.42 to \$136,345.44 |
| 1 Class A misdemeanant: \$3,361.94 to \$13,634.54 | 100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45 |

Projected Corrections Impact from Amendments:

**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:  **1/27/2021**
 Chief of Staff, Kentucky Department of Corrections Date