

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 310 GA BR # 1166 DOC ID #: HB031010.100 - 1166 - XXXX

BILL SPONSOR(S): Rep. S. Heavrin, J. Decker, K. King, C. Massey

AMENDMENT SPONSOR(S): Rep. J. Nemes

TITLE: AN ACT relating to victims of sex offenses.

SUMMARY OF LEGISLATION: Amend KRS 439.340 to require notice and hearings prior to parole of persons convicted of a Class D felony classified as a sex crime under KRS 17.500; amend KRS 510.037, 456.010, and 403.720 to clarify that inchoate offenses are included in the statutory offenses.

AMENDMENT: Retain original provisions; amend KRS 504.110 to refer certain violent criminal defendants who are incompetent to stand trial with no substantial probability of attaining competency to a new type of involuntary commitment to be created in KRS Chapter 202C; create definitions; assign guardian ad litem; establish hearing procedures and commitment criteria; establish a schedule and procedures for review hearings; create procedures and protections for patients; allow for promulgation of administrative regulations; amend KRS 31.110 to conform; EMERGENCY.

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 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 checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <i>Impacts policy and provides services to victims.</i> | |

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 amends KRS 439.340 by requiring parole hearings for Class D felonies defined as sex crimes under KRS 17.500.

The legislation would add these Class D sex offenses to the list of those for whom notification is made prior to the parole hearing. This includes notifications that would allow the victims to provide a statement to the Parole Board or request to be present for a victim hearing before the Parole Board. There are specific instructions for notifications for individuals incarcerated before the effective date of the act, for those victims for whom the Department may not have previously collected contact information. Class D victims for offenses other than sex offenses may continue to submit comments to the Parole Board.

KRS 510.037 adds convictions for inchoate offenses for rape, sodomy, or sexual abuse as an application for an interpersonal protective order. Inchoate offenses are added to the definitions of sexual assault, stalking, or strangulation under KRS 456.010 and KRS 403.720, applying to protection and domestic violence orders.

- ◆ The legislation would apply to KRS 510.060 Rape 3rd Degree, KRS 510.090 Sodomy 3rd Degree, KRS 510.110 Sexual Abuse 1st Degree, KRS 510.148 Indecent Exposure 1st Degree 3rd or subsequent offense within three (3) years, KRS 510.155 Unlawful Use of Electronic Means to Induce a Minor to Engage in Sexual or Prohibited Activities, KRS 529.110 Promoting Human Trafficking involving commercial sexual activity, KRS 531.335 Possession or Viewing of Matter Portraying a Sexual Performance by a Minor, or criminal attempt to commit a Class C sex offense.

The Department would provide parole hearings and victim notifications to the additional cases identified in the legislation.

- ◆ The Department would collect contact information from victims of Class D sex offenders at the time of sentencing to provide notification when the inmate becomes eligible for a parole hearing. When an inmate becomes eligible for parole consideration, the Department provides victim notification to the victim advising of an inmate’s parole eligibility date with an opportunity to submit comments either in person or in writing via a victim impact statement. The victim would then receive written notice when the offender is released from custody.
- ◆ Additionally, the Department would also ensure these victims receive information about enrolling in VINE (Victim Information and Notification Everyday). VINE is a free, anonymous, electronic service that provides victims and members of the public with information about the current location of the offender’s incarceration and notification about an inmate’s transfer or release. This provides an immediate notification for victims.

Under the legislation, there would be a need for additional hearing schedules and staff members to accommodate the increased volume.

- ◆ Currently the Department has 1,751 inmates in custody that would be subject to the legislation.
- ◆ AOC reports 854 convictions for Class D sex offenses in FY20.
- ◆ As statute limits the number of Parole Board Members (KRS 439.320), without a modification, the current workload of the Parole Board would impede the Board’s ability to absorb additional volume. To accommodate the additional hearings, additional staff would be needed, including four (4) additional Parole Board Members (approx. \$130,000 annual salary and benefits for each), two (2) Parole Board Specialists to staff the hearings (approx. \$68,000 annual salary and benefits for each), and one (1) Victim Advocate to provide notifications (approx. \$87,000 annual salary and benefits).

The Department of Corrections and Kentucky Parole Board supports provision of information and resources for victims of crimes. Under the legislation there will be an increased volume for parole hearings and processing of victim notifications. This would require additional staffing that would result in a moderate budgetary impact, primarily affecting provision of services by the Parole Board.

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: The House Floor Amendment 4 provides a title amendment. House Floor Amendment 3 adds sections related to competency to stand trial. There is no impact to incarceration under 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:  _____ 3/29/2021
Chief of Staff, Kentucky Department of Corrections Date