

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 96 Introduced BR # 376 DOC ID #: xxx

BILL SPONSOR(S): Rep. M. Prunty AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to the performance of an abortion upon a minor and declaring an emergency.

**SUMMARY OF LEGISLATION:** Amend KRS 311.732, relating to performance of an abortion upon a minor, to require the informed written consent of a parent or legal guardian to include a copy of that parent's or legal guardian's government-issued identification and to include specific language; require the physician to keep a copy of the informed written consent for at least 7 years; require the physician to execute an affidavit; require additional criteria and standards for when a court determines whether to allow a minor to self-consent to an abortion; require the court hearing to remain confidential and be held in a private, informal setting within the courthouse; require, in the case of a medical emergency, for the physician to notify the parent or legal guardian within 24 hours of the abortion; amend KRS 311.595 to allow the Kentucky Board of Medical Licensure to suspend or revoke the license of any physician for violations; amend KRS 311.990 to establish criminal penalties for violations; amend KRS 213.101 to expand the statistical reporting system for abortions; EMERGENCY.

**AMENDMENT:** .

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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)

KRS 311.732 would be amended to require an informed written consent before performing an abortion on a minor. Requirements are added to the Court hearing for a minor petitioning for the right to self-consent to an abortion. There is an annual reporting requirement added for the number and disposition of such petitions. There is additional information for requirements if a medical emergency exists necessitating action before consent can occur.

Under KRS 311.595 failure to comply with these requirements may result in license suspension. KRS 213.101 adds information required under this legislation to be included in the required report to Vital Statistics.

KRS 311.990 adds the penalty provision, intentional or reckless performing an abortion upon a minor without obtaining the required consent shall be subject to a Class D felony. Other intentional or knowing failures to comply with requirements of KRS 311.732 is a Class A misdemeanor. Minors upon whom a violation is performed is not guilty of the criminal offense.

Current AOC data reports zero (0) convictions for related KRS 311 statutes. While the Department of Corrections has two (2) offenders under supervision for criminal offenses under KRS 311, neither are for violations of the law related to abortion.

As a Class D offender, if incarcerated, offenders would serve their sentence in a county jail at a daily cost to incarcerate of \$37.35.

While there is no way to predict the number of new convictions this provision would generate, the number of convictions under this legislation would likely be few in number. The expected impact to the Department under this legislation would be very minimal.

Cost to Incarcerate

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)

Offenders convicted under this legislation would be a Class D felon housed in a county jail as a state inmate. This provides additional revenue for jails, with the jail receiving \$31.34 per day.

The Class A misdemeanor included in the legislation would be subject to the jurisdiction and cost of the county. Conviction and incarceration rates for these offenses are likely to be low in number.

Overall, any impact to incarceration stemming from this legislation would be, at most, minimal.

Cost to Incarcerate

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:**  **1/12/2021**  
Chief of Staff, Kentucky Department of Corrections Date