

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # SB 52 GA BR # 948 DOC ID #: SB005210.100 - 948 - XXXX

BILL SPONSOR(S): Sen. D. Harper Angel, W. Westerfield, M. McGarvey, D. Yates

AMENDMENT SPONSOR(S): Sen. W. Westerfield

TITLE: AN ACT relating to sexual offenses by peace officers.

SUMMARY OF LEGISLATION: Amend KRS 510.060, rape in the third degree, to include a peace officer who subjects a person in custody or under arrest to sexual intercourse; amend KRS 510.090, sodomy in the third degree, to include a peace officer who subjects a person in custody or under arrest to deviate sexual intercourse; amend KRS 510.120, sexual abuse in the second degree, to include a peace officer who subjects a person in custody or under arrest to sexual contact.

AMENDMENT: Retain original provisions; extend protections to persons who are under investigation for a criminal or traffic offense.

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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 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 checked="" type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) . | |
-

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 amends KRS 510.060 Rape 3rd Degree, KRS 510.090 Sodomy 3rd Degree, and KRS 510.120 Sexual Abuse 2nd Degree to add application of the offense when a peace officer subjects a person arrested, held in custody, or should have known was under arrest or held in custody to sexual intercourse, deviate sexual intercourse, or sexual contact.

Rape 3rd Degree and Sodomy 3rd Degree are Class D felonies. Sexual Abuse 2nd Degree is a Class A misdemeanor. Under KRS 439.3401, the KRS Chapter 510 felonies are violent offenses, subject to 85% parole eligibility. The KRS Chapter 510 felonies are also subject to sex offender registration.

Under KRS 532.100, Class D sex offenders are subject to housing at county jails at a cost of \$37.35, unless the sentence is two (2) years or longer in length, in which the offender will be housed at a prison facility at a higher cost of \$80.24 daily cost to incarcerate.

Currently, the Department of Corrections has 354 offenders incarcerated and 302 offenders on supervision with convictions for Rape 3rd Degree, Sodomy 3rd Degree, and misdemeanor Sexual Abuse 2nd Degree. AOC reports 137 convictions for Rape and Sodomy 3rd Degree and six (6) convictions for Sexual Abuse 2nd Degree in FY20. These convictions represent a broader category of behavior than the specific conduct described in this legislation. It is not possible to identify if any of these offenses were committed by a peace officer.

It is not known how many additional convictions for these offenses would occur under this legislation, but the impact would not be expected to be significant.

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)

Class D sex offenders with less than two (2) year sentences are housed at county detention facilities with the jail receiving \$31.34 daily reimbursement.

Misdemeanor offenders convicted of Sexual Abuse 2nd Degree are subject to county costs.

It is not possible to estimate a number of convictions which may occur under this legislation. Given the specific elements of the offense, while the number of convictions may be limited, the conduct may result in incarceration. Overall, the impact to incarceration costs would be 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:

Senate Committee Substitute: There is no additional impact under the Senate Committee Substitute.

Senate Floor Amendment: The Floor Amendment specifies situations where the peace officers are serving in their official capacity. There is no additional impact under the Senate Floor Amendment.

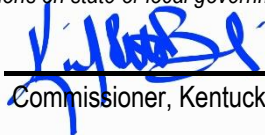
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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


Commissioner, Kentucky Department of Corrections

2/24/2021

Date