

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # SB 64 GA BR # 469 DOC ID #: xxx

BILL SPONSOR(S): Sen. A. Kerr AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to crimes and punishments.

SUMMARY OF LEGISLATION: Amend KRS 510.010 to define "registrant" and "adult intermediary"; amend KRS 510.155 to include communications with adult intermediaries for minors and enhance punishment if the minor or perceived minor is under 12 years old, the offender is a registered sex offender, or a person travels into the Commonwealth for the purpose of procuring or promoting the use of a minor.

AMENDMENT: .

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 checked="" 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) . | |
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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 adds definitions to KRS 510.010 for registrant as defined in KRS 17.500 and adult intermediary who communicates with another to procure or promote the use of a minor.

The criminal offense under KRS 510.155 is modified to add procuring or promoting the use of a minor from an adult intermediary. Language includes a peace officer or persons working in coordination with law enforcement posing as a minor or an adult intermediary. Each day a person knowingly uses a communications system for the purpose of procuring or promoting the use of a minor shall be a separate violation.

The offense is a Class D felony unless the minor is under the age of twelve (12), the offender is a registrant, or the individual enters Kentucky for the purpose of procuring or promoting the use of a minor, which is a Class C felony.

Offenders convicted under the legislation would be identified as a sex offender under KRS 17.500, subject to sex offender registry, sex offender treatment, and sex offender postincarceration supervision.

As a sex offense, under KRS 532.100, Class D offenders would serve their offense in a state prison facility if the sentence is two (2) years or more. If the sentence is under two (2) years, placement would be at a county detention facility at a cost to the state of \$37.35 per day. Class D offenders with a sentence of more than two (2) years and Class C offenders convicted under KRS 510.155 would serve their sentence in a prison facility at a daily cost of \$80.24.

The Department of Corrections records reflects 173 convictions within the inmate population for the existing Class D offense of KRS 510.155 Prohibited use of Electronic Communications System to Procure Minor. There are an additional 109 convictions for this offense within the supervised population.

AOC records for FY 2020 indicate 68 (sixty-eight) convictions stemming from 44 (forty-four) cases under KRS 510.155.

It is not possible to determine how many additional convictions this legislation would generate. Offenders may incur either a Class D or a Class C level conviction, with most likely serving the sentence at a Kentucky prison. Overall, the overall impact to incarceration is expected to be minimal to moderate.

Cost to Incarcerate

A Class C Felony sentence is 5 to 10 years.
1 Class C Felon costs KY \$146,438.73 to \$292,877.46

10 Class C Felons cost KY \$1,464,387.29 to \$2,928,774.58
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.
1 Class D Felon costs KY \$13,634.54 to \$68,172.72

10 Class D Felons cost KY \$136,345.44 to \$681,727.22
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 offenders under KRS 510.155 with a sentence less than two (2) years would serve their sentence in a county jail at a cost to incarcerate of \$37.35 per day, with \$31.34 daily reimbursement to the local detention center.

While it is not known how many additional convictions would be incurred under this offense, given that only a portion would be subject to incarceration at a local detention center, the impact to local corrections under this legislation would be minimal.

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: 
Chief of Staff, Kentucky Department of Corrections

1/25/2021
Date