

CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 20 HCS BR # 140 DOC ID #: HB002030.100 - 140 - XXXX

BILL SPONSOR(S): Rep. C. Freeland, K. Banta, T. Bojanowski, A. Bowling, K. Bratcher, R. Bridges, M. Cantrell, J. Decker, J. Dixon, R. Dotson, D. Fister, K. Fleming, K. Flood, D. Frazier Gordon, A. Gentry, D. Graham, D. Hale, S. Heavrin, R. Huff, T. Huff, J. Jenkins, DJ Johnson, K. King, N. Kirk-McCormick, N. Kulkarni, W. Lawrence, S. Lewis, M. Lockett, C. Massey, B. McCool, C. Miller, P. Minter, K. Moser, J. Nemes, D. Osborne, R. Palumbo, P. Pratt, M. Prunty, J. Raymond, R. Roberts, S. Sheldon, T. Smith, C. Stevenson, P. Stevenson, N. Tate, W. Thomas, K. Timoney, B. Wesley, S. Westrom, B. Wheatley, R. White, L. Willner

AMENDMENT SPONSOR(S): . . .

TITLE: AN ACT relating to torture of a dog or cat.

SUMMARY OF LEGISLATION: Amend KRS 525.135, relating to torture of a dog or cat, to add specific acts to definition of torture; make all violations a Class D felony; make each act of torture prosecutable as a separate offense; make the exemptions applicable only where there is no intent to cause, increase, or prolong the pain and suffering of the dog or cat.

AMENDMENT: Retain original provisions; define terms; include restraining a dog or cat without regard to its pain, suffering, injury, or death; include breed-specific alterations as exemptions where there is no intent to cause, increase, or prolong the pain and suffering of the dog or cat.

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) . | |
-

STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$97.60. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$35.43 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 proposed legislation amends KRS 525.135:

- The definition of torture is amended by removing the word intentional. Intent to cause pain or suffering is added (modifying current statute wording from intent to increase or prolong pain).
 - Several examples of torture are added, to include items such as burning, drowning, or suffocating. Physical disfigurement and loss of function of a limb or bodily organ are included.
 - The definition of torture also includes deprivation of food, water, shelter, and medical care while restraining the animal with wanton regard for pain, suffering, injury, or death. A definition of restraint is provided.
- Specification of application to a domestic dog or cat is removed.
- Each act of torture may be charged as a separate offense.
- Language is added confirming the offense does not apply to the killing or injuring of a dog or cat without intent to cause, increase, or prolong pain or suffering.

Under current statute:

- Torture of a Dog or Cat is a Class A misdemeanor for a first offense,
- Torture of a Dog or Cat for subsequent offenses is a Class D felony, and
- Torture of a Dog or Cat involving serious physical injury or death is a Class D felony.

The proposed legislation removes the misdemeanor offense, elevating the offense of Torture of Dog or Cat to a Class D felony.

AOC reflects fourteen (14) convictions for this offense in FY 2021, eleven (11) for the misdemeanor offense and three (3) for Torture of a Dog or Cat with Serious Physical Injury/Death.

Department of Corrections records currently reflect six (6) inmates with felony convictions for Torture of a Dog or Cat. Additionally, there are a total of twelve (12) offenders on felony community supervision under this statute.

Under the legislation, due to the removal of a misdemeanor offense, there would be an increase in felony convictions. Class D offenders would be housed at a county jail at a daily cost to the state of \$35.43.

The shift from misdemeanor to felony levels would likely increase incarceration to some extent.

Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$129,318.61 to \$646,593.03

1 Class D Felon costs KY \$12,931.86 to \$64,659.30

100 Class D Felons cost KY \$1,293,186.06 to \$6,465,930.31

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 \$35.43 cost to incarcerate for the Department of Corrections, including \$31.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail. Kentucky jails report their actual cost to incarcerate is closer to an average of \$45 per day.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

Under current statute, misdemeanor offenders with a conviction of Torture of a Dog or Cat are subject to county costs, with felony offenders under Torture of a Dog or Cat housed at county detention facilities at a cost to the state of \$35.43 per day, with the local detention center receiving \$31.34 daily reimbursement.

Under the legislation, all offenses would become felony convictions, at the cost of the Commonwealth.

The expansion of the conduct that constitutes an offense under this legislation may add to the overall number of offenders who are convicted of Torture of a Dog or Cat. Though it is not possible to estimate the impact, it would not be expected to greatly increase the number of convictions under this offense.

Overall, given the limited number of offenders with this specific offense, the impact of the legislation on incarceration costs is expected to be minimal to moderate.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.

10 Class A misdemeanants: \$31,886.78 to \$129,318.61

1 Class A misdemeanant: \$3,188.68 to \$12,931.86

100 Class A misdemeanants: \$318,867.80 to \$1,293,186.06

PROJECTED IMPACT FROM AMENDMENTS:

NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

House Committee Substitute:

There is no change to the corrections impact under the House Committee Substitute.

The House Committee Substitute further defines deprivation of food, shelter, and medical care as it relates to torture of a dog or cat. Restraint is also expanded to include sealing in a bag or box, tying down (with rope, chains, etc.), placing in a dumpster, or abandoning. Language has been added to clarify excluded actions at the recommendation of a veterinarian or breed specific care.

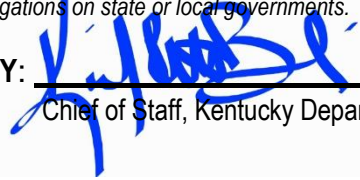
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

3/8/2022

Date