

CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 262 HCS BR # 339 DOC ID #: HB026230.100 - 339 - 92581 - 3234v

BILL SPONSOR(S): Rep. C. Massey, K. Banta, J. Blanton, D. Elliott, S. Heavrin, S. Maddox, C. McCoy, K. Moser
AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to sex crimes.

SUMMARY OF LEGISLATION: Amend KRS 530.020 to specify the family relationships covered in the statute; to specify that a person who does not consent to incest is a victim; make changes to the enhancement requirements.

AMENDMENT: Retain original provisions, except amend the enhancement requirement to remove reference to "adults"; remove the three or more years older requirement for a Class A felony; amend KRS 510.010 to include alcohol in the definition of "physically helpless"; amend KRS 510.060 to create an additional element of rape in the third degree; amend KRS 510.090 to create an additional element of sodomy in the third degree.

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) . | |
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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)

HB 262 expands the list of family members which would be included in the criminal offense of incest in KRS 530.020. Parent, child, grandparent, grandchild, great grandparent, great grandchild, nephew, niece, and first cousin are added to uncle, aunt, brother, and sister.

Incest, under KRS 530.020, has a penalty range of a Class C to a Class A felony.

The legislation adds to the Class B level of the offense the commission of incest without consent. In addition, the minor provision is modified to specify the offense committed against a person less than the age of eighteen (18) by a person three (3) or more years older. The Class A level of the offense adds the same three (3) year timeframe to the minor under the age of twelve (12) as well modifying language for commission of the offense without consent which causes serious physical injury.

Incest is a sex crime under KRS 17.500, subject to sex offender registration and sex offender treatment requirements. The Class A level of this offense would be categorized as a violent.

The Department of Corrections currently has 281 individuals incarcerated and eighty-four (84) individuals on community supervision for the offense of Incest.

Offenders serving on the offense of Incest have an average sentence length of just above fifteen (15) years.

Offenders convicted under KRS 530.020 are housed at a state prison facility at a cost to incarcerate of \$97.60 per day.

The legislation both widens and narrows the elements of the offense of Incest. Overall, the proposed modifications would not substantially change the number of convictions under this statute.

Cost to Incarcerate

A Class A Felony sentence is 20 years or more.
1 Class A Felon costs KY a minimum of \$712,478.35

10 Class A Felons cost KY a minimum of \$7,124,783.52
100 Class A Felons cost KY a minimum of \$71,247,835.20

A Class B Felony sentence is 10 to 20 years.
1 Class B Felon costs KY \$356,239.18 to \$712,478.35

10 Class B Felons cost KY \$3,562,391.76 to \$7,124,783.52
100 Class B Felons cost KY \$35,623,917.60 to \$71,247,835.20

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)

PROJECTED IMPACT FROM AMENDMENTS:

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

The House Committee Substitute makes several changes to the legislation:

- KRS 530.020(2)(a), Incest as a Class C felony, is modified to reflect the offense committed by consenting persons rather than adults.
- There is no change in the Committee Substitute for KRS 530.020(2)(b), Incest as a Class B felony, which would be committed with a person who is less than eighteen (18) years of age by a person three (3) or more years older.
- Under KRS 530.020(2)(c), Incest as a Class A felony, the Committee Substitute removes language pertaining to an act committed by a person three (3) or more years older than the victim, leaving the offense as committed with a person who is less than twelve (12) years of age.
- The Committee Substitute adds alcohol to the definition of physically helpless under KRS 510.010, which currently only applies as a result of being under the influence of a controlled substance or legend drug.
- Under the Committee Substitute language is added to KRS 510.060 Rape 3rd Degree (Class D felony) prohibiting engaging in sexual intercourse with another person knowing his or her ability to assess or control his or her own conduct is substantially impaired.
- The same language is added to KRS 510.090 Sodomy 3rd Degree (Class D felony).

In addition to the modifications to the offense of Incest, the House Committee Substitute widens conduct which would be applied to sexual offenses under KRS Chapter 510. It is unknown how many additional convictions may be incurred based on these changes. Overall, the House Committee Substitute would have a minimal to moderate impact on incarceration.

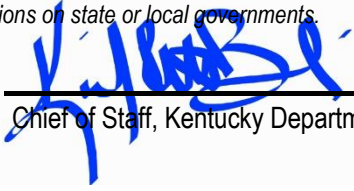
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

1/25/2022

Date