

# CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 263 HCS 1 BR # 1353 DOC ID #: HB026330.100 - 1353 - 93911 - 4527v

**BILL SPONSOR(S):** Rep. C. Massey, D. Osborne, A. Bowling, K. Bratcher, R. Bridges, J. Decker, J. Dixon, C. Fugate, D. Hale, R. Heath, R. Huff, T. Huff, K. King, W. Lawrence, M. Lockett, K. Moser, J. Nemes, S. Riley, W. Thomas, R. Webber, S. Westrom

**AMENDMENT SPONSOR(S):** . . .

**TITLE:** AN ACT relating to criminal abuse.

**SUMMARY OF LEGISLATION:** Amend KRS 508.100 to increase penalties if the victim is under 12 years of age.

**AMENDMENT:** Retain original provisions; provide that the Act may be cited as Kami's Law.

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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 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 \$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 legislation enhances penalties for criminal abuse for a victim under the age of twelve (12). The legislation will have longer incarceration terms, with associated increased incarceration costs.

KRS 508.100 Criminal Abuse is a Class C felony under current statute.

Under the legislation, KRS 508.100 Criminal Abuse is separated into two (2) offenses levels, increasing the penalty for a portion of the statute:

- ◆ Class C felony for a person who is physically helpless or mentally helpless.
- ◆ Class B felony for a person who is under the age of twelve (12).
  - A Class B felony which involves serious physical injury would be subject to the violent offender statute (KRS 439.3401) and an increase to eight-five percent (85%) parole eligibility. Serious physical injury for a child age twelve (12) or less is defined in KRS 500.080.

AOC records for FY21 indicate fifty-four (54) total convictions for KRS 508.100 Criminal Abuse 1<sup>st</sup> Degree. This includes thirty-seven (37) convictions specifically for Criminal Abuse 1<sup>st</sup> Degree-Child 12 or under.

Currently Department of Corrections records indicate nineteen (19) total inmates incarcerated for KRS 508.100, however, only one (1) is specific to Criminal Abuse 1<sup>st</sup> Degree-Child 12 or under. Individuals serving on this offense are housed at a prison facility at a cost to the state of \$97.60 per day.

Class C offenses have a penalty range of five (5) to ten (10) years. Class B offenses have a penalty range from ten (10) to twenty (20) years. The higher offense level under the bill significantly increases the length of incarceration terms at an annual cost to incarcerate of \$35,623.92.

Additionally, it is not known how many Class B offenses may involve serious physical injury and therefore would be classified as a violent offender.

The average sentence length for KRS Criminal Abuse 1<sup>st</sup> Degree-Child 12 or under is 3,650 days. For those who would be subject to the Class B felony as a violent offense, increasing from the current parole eligibility to eighty-five percent (85%) parole eligibility would increase time spent incarcerated by 2,372.5 days. Using the average cost to incarcerate of \$97.60, the increased number of days would correlate into \$231,556.00 additional cost for each offender subject to the enhancement.

For offenders subject to the change in the legislation, the higher penalty increases days incarcerated and the associated incarceration costs.

**Cost to Incarcerate**

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,781,195.88 to \$3,562,391.76
1 Class C Felon costs KY \$178,119.59 to \$356,239.18	100 Class C Felons cost KY \$17,811,958.80 to \$35,623,917.60
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.\*

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

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**PROJECTED IMPACT FROM AMENDMENTS:**

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

House Committee Substitute:

There is no impact to Corrections from the House Committee Substitute.

*\*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

2/14/2022

Date