

# CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 310 GA BR # 1303 DOC ID #: xxxx

BILL SPONSOR(S): Rep. C. Massey AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to home incarceration.

SUMMARY OF LEGISLATION: .

AMENDMENT: .

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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 type="checkbox"/> Increases penalty for existing crime(s)  | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration  | <input checked="" 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 type="checkbox"/> Changes elements of offense for existing crime(s)  |  |
| <input checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <i>modifies credit calculation.</i> |  |
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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 310 modifies KRS 532.245 related to sentence credits awarded for time spent on pretrial home incarceration. Under current statute, time spent on pretrial home incarceration pursuant to KRS 431.517 shall be awarded against service of the sentence. Time shall be calculated as jail custody credit in accordance with KRS 532.120.

KRS 431.517(1) references home incarceration ordered as a form of pretrial release, subject to conditions in KRS 532.200 to KRS 532.250. KRS 431.517(3) allows the court to order global positioning monitoring system (GPS) as part of pretrial release. Pretrial GPS is operated by the county and often includes a cost for the defendant.

The definition of home incarceration in KRS 532.200 includes the use of a monitoring device approved by the Department as part of the person's home confinement. KRS 532.210(4) also references time spent on home incarceration to be credited towards the sentence. KRS 532.220 lists the conditions of home incarceration. KRS 532.220(6) requires the defendant to maintain a telephone or other approved monitoring device. It is assumed that absent GPS monitoring, the court order for pretrial incarceration would include a mechanism to document compliance with home confinement.

Under the legislation, time spent on pretrial home incarceration ordered as a form of pretrial release, whether GPS is ordered or not, would be calculated as jail custody credit with the pre-sentence investigation report at the time of sentencing.

It is not possible to estimate the additional days of credit this would award as the Department does not currently track pretrial home incarceration.

Time awarded as jail custody credit reduces the days remaining to serve if a sentence of incarceration is awarded. Additional days awarded at the time of sentencing is fewer days the state is responsible for under a sentence of incarceration, either in housing an inmate in a state prison facility or the provision of per diem for a state inmate serving in a local detention center. As such, the legislation provides a cost savings via a reduction in incarceration.

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**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)

Additional days awarded as part of sentencing would decrease the remaining days in custody for those serving their sentence in a county jail. This applies to county prisoners, which would save the county dollars through the use of home incarceration in lieu of pretrial incarceration. It also applies to those serving in the local detention center as a state inmate, which would reduce the jail population by fewer days incarceration, but also reduces the associated revenue for state inmates.

The impact from the legislation is dependent on how often the court orders home incarceration without electronic monitoring as part of pretrial release.

Overall, this modification would not have a significant fiscal impact for local detention.

**PROJECTED IMPACT FROM AMENDMENTS:**

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

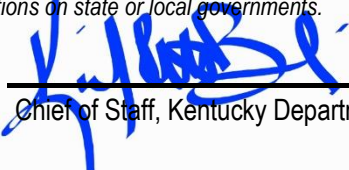
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

**1/19/2022**

Date