

# CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 402 GA BR # 1563 DOC ID #: xxxx

BILL SPONSOR(S): Rep. D. Frazier Gordon AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to assisted reproduction.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 311 to create the crime of fraudulent assisted reproduction; define terms; authorize a civil action; establish penalty; amend KRS 311.597 to add fraudulent assisted reproduction to the list of violations that may cause a doctor to lose or be restricted in the use of his or her medical license.

**AMENDMENT:** .

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |  |  |
|--|--|
| <input checked="" 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 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 proposed legislation creates a new criminal offense for fraudulent assisted reproduction. The impact to incarceration from this legislation would be minimal.

The legislation establishes Class D Fraudulent Assisted Reproduction under KRS 311 when health care providers intentionally or knowingly use human reproductive material without consent.

A timeframe of five (5) years after the child's eighteenth (18<sup>th</sup>) birthday or the earliest dates of discovery of the offense. Civil liability is also included. This conduct is also added under KRS 311.597 as conduct violating medical licensure.

A search for similar offenses indicates the following:

- Zero (0) inmates are currently serving on offenses under KRS Chapter 212, 213, 311, or specified offenses under 218A.
- Eleven (11) offenders are on supervision for KRS 311.560 Practice Medicine without a License, KRS 213.991 Possession of Stolen Vital Statistics Certificate, KRS 213.991 Possess/Use False Records of Birth, KRS 218A.320 Criminal Possession of a Medical Record, KRS 218A.322 Theft of a Medical Record, and KRS 218A.324 Criminal Falsification of a Medical Record.

Convictions under the proposed offense would be limited. If incarcerated, offenders convicted under the legislation would be a Class D felon housed in a county jail as a state inmate.

## Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

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

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

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)

Overall, the impact to local incarceration for the proposed offense, both pre- and post-adjudication, would be expected to be very minimal.

As a Class D offender, offenders subject to this offense would serve their sentence in a county jail at a cost to the state of \$35.43 per day, with \$31.34 daily reimbursement to the local detention center.

**PROJECTED IMPACT FROM AMENDMENTS:**

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

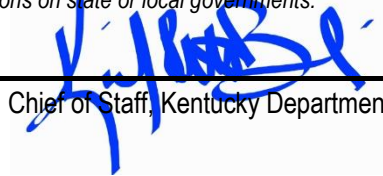
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

2/17/2022

Date