

# CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # SB 369 Introduced BR # 112 DOC ID #: xxxx

BILL SPONSOR(S): Sen. D. Yates, M. McGarvey AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to pretrial release.

**SUMMARY OF LEGISLATION:** Amend KRS 431.066 to define "enhanced scrutiny offense," "money bail," "standard conditions," and "violent or sexual offense"; provide that no verified and eligible defendant shall be detained on money bail; provide circumstances when a defendant may be released on his or her own recognizance; create a new section of KRS Chapter 431 to establish when a detention hearing shall be held; provide for factors to be considered when making a pretrial release determination; amend KRS 6.949, 24A.110, 27A.360, 27A.370, 27A.400, 31.120, 41.300, 186.260, 186.560, 187.400, 222.203, 222.204, 281.765, 281A.010, 413.120, 419.020, 421.500, 431.064, 431.510, 431.520, 431.525, 431.550, 438.286, 440.020, 440.030, 440.290, 440.300, 440.310, 440.320, 440.360, 440.370, 440.380, 452.260, 520.010, 520.070, 520.080, 532.115, 610.190, and 640.020 to conform; repeal KRS 30A.060, 136.410, 218A.135, 431.021, 431.523, 431.530, 431.5305, 431.531, 431.532, 431.535, 431.540, and 431.545.

**AMENDMENT:** .

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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 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 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)

This legislation states that eligible defendants shall not be detained on money bail. Pretrial release decisions are made according to the offense and the validated pretrial risk assessment tool. The legislation provides guidelines for who would be eligible for release on their own recognizance, subject to conditions of release, or held for a detention hearing. Certain offenses or risk levels are identified as eligible to be released on his or her own recognizance. Certain high risk, violent or sexual offenders shall be subject to a detention hearing.

- ◆ Wording in KRS 431.064 is modified to conform. Violation of a condition of release under this statute is a Class A misdemeanor. KRS 431.550 are modified accordingly. Violation of bail bonds is a Class A misdemeanor for a first offense and a Class D felony for subsequent offenses. Wording in KRS 520.070 & KRS 520.080, Class D Bail Jumping 1<sup>st</sup> Degree and Class A misdemeanor Bail Jumping 2<sup>nd</sup> Degree are also modified to conform.

While the Commonwealth's pretrial system does not directly impact post-adjudication incarceration, the proposed modifications have a significant impact to incarceration on the local level with a corresponding impact for the Department of Corrections.

Days in custody prior to conviction are awarded toward a defendant's sentence, though as a pre-adjudication offender, the cost is assumed by the county.

- ◆ Based on pre-sentence investigation reports completed by the Division of Probation & Parole in 2021, the average number of days in custody prior to sentencing for a felony offense for those sentenced to incarceration (excluding capital offenses) was 173.5 days.

- ◆ From Department of Corrections sentencing records, 79% were probated and 21% received a sentence of incarceration and were subsequently admitted into Department of Corrections custody.
- ◆ Of the 2021 admissions to prison, 65% were Class D offenders and 23% were Class C offenders.
- ◆ Upon commitment, offenders will serve the remainder of their sentence as a state inmate, at a daily cost to incarcerate for the Commonwealth of either \$97.60 for those serving in a prison or \$35.43 for those Class D and community custody Class C state inmates serving in the county jail.

For offenders ultimately sentenced to incarceration, fewer days of jail custody credit is a cost savings for the county but equates to a higher number of days left to serve on their sentence, which is a corresponding cost increase for the state.

**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)

With the removal of money bond under the proposed legislation, there would be fewer pre-adjudication detainees. The proposed legislation presents a significant impact on the volume, incarceration length, and cost for pre-adjudication offenders housed in county jails.

Of the 138,699 pre-trial interviews conducted by AOC conducted in 2021:

- ◆ 31,994 (23%) received administrative release,
- ◆ 64,749 (45%) were released on a financial bond, and
- ◆ 44,960 (32%) were released on a non-financial bond (ex: released on own recognizance).
- ◆ The median average for pretrial releases was two (2) days in custody.
  - Those released on administrative release served a median average of zero (0) days.
  - Offenders released on a non-financial release or financial bond spent a median average of two (2) days prior to release. Those who were released via the 60-day rule served a median number of seventy-seven (77) days prior to release.
- ◆ Those who were not released (detained until disposition or ending with indictment) spent a median average of twenty-seven (27) days in custody prior to release.
  - At the District Court level the median average until indictment was fifty-two (52) to fifty-five (55) days.
  - Those detained until disposition at the Circuit Court level served a median number of 109 days prior to release.

The legislation would have a significant impact at the local level in terms of cost savings for counties.

**PROJECTED IMPACT FROM AMENDMENTS:**

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

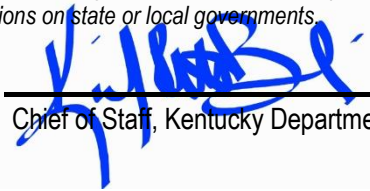
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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



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Chief of Staff, Kentucky Department of Corrections

**3/18/2022**

Date