

# CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # SB 38 GA BR # 859 DOC ID #: xxx

BILL SPONSOR(S): Sen. J. Adams AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to incest.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to include incest, as defined in KRS 530.020, as a qualifying crime for designation of a "violent offender".

**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 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 adds the offense of incest to the violent offender statute (KRS 439.3401).

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

The increase in penalty would apply to the following sections of KRS 530.020: the Class B offense of forcible compulsion, victim under the age of eighteen (18), or victim incapable of consent; and the Class A offense of victim less than the age of twelve (12) or victim with serious physical injury.

Currently, under the violent offender statute, only offenders convicted of the Class A felony level of Incest would be categorized as a violent. Under the legislation, as a violent offense, individuals convicted of Class A or Class B Incest would be subject to eighty-five percent (85%) parole eligibility.

Incest is a sex crime under KRS 17.500, subject to sex offender registration and sex offender treatment requirements.

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

- ◆ 115 inmates have Class C offenses
- ◆ 122 inmates have Class B offenses
- ◆ 44 inmates have Class A offenses

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

Class B Incest offenders have an average sentence length of just above fifteen (15) years (5537 days). An increase from 20% parole eligibility to 85% parole eligibility would be an increase of 3,599 days in custody. This correlates to an increased cost of \$351,267.28 per inmate.

The additional days incarcerated would have a significant increase in incarceration costs for inmates under KRS 530.020.

**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)

*\*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

**1/20/2022**

Date