

CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # HB 103 HCS 1 BR # 834 DOC ID #: xxxx

BILL SPONSOR(S): Rep. R. Dotson, N. Wilson AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to the torture of a dog or cat.

SUMMARY OF LEGISLATION: Amend KRS 525.135 to include intentional and wanton harm to a dog or cat; define "restrain" and "serious physical injury or infirmity" and redefine "torture"; provide that torture of a dog or cat is a Class D felony in every instance and that each act may constitute a separate offense; set forth what does not constitute torture of a dog or cat.

AMENDMENT: Retain original provisions; amend KRS 525.135 to define "torture" and "serious physical injury or infirmity."

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 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 \$105.23. 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 \$40.11 per day, which includes \$35.34 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 could have a moderate impact on incarceration:

- ◆ The legislation removes the misdemeanor offense of Torture of a Dog or Cat, leaving all convictions for this offense as a Class D felony. The shift from misdemeanor to felony offenses does impact incarceration and the associated costs.
- ◆ The expansion of the conduct that constitutes an offense may add to the overall number of offenders who are convicted of Torture of a Dog or Cat.

It is not possible to estimate the impact from the legislation, though the current number of convictions under KRS 525.135 are limited, additional convictions may be incurred under the proposed language.

The proposed legislation amends KRS 525.135:

- ◆ Definitions are added to the statute for restrain, serious physical injury or infirmity, physical infirmity, and physical injury.
- ◆ The definition of torture is amended by adding serious injury and wanton disregard that causes, increases, or prolongs pain or suffering (current statute wording is intent to increase or prolong pain).
- ◆ The proposed legislation removes the misdemeanor offense, elevating the offense of Torture of Dog or Cat to a Class D felony.
- ◆ Each act of torture may be charged as a separate offense.
- ◆ Language is added that a tortured dog or cat may be euthanized to release suffering.
- ◆ The offense of Torture of a Dog or Cat does not apply to the killing or injuring of a dog or cat without intent or wanton disregard for pain and suffering.

Under current statute:

- ◆ Torture of a Dog or Cat is a Class A misdemeanor for a first offense,
- ◆ Torture of a Dog or Cat for subsequent offenses is a Class D felony, and
- ◆ Torture of a Dog or Cat involving serious physical injury or death is a Class D felony.

Department of Corrections records currently reflect eight (8) inmates with felony convictions for Torture of a Dog or Cat. Additionally, there are a total of eleven (11) offenders on felony community supervision under this statute.

AOC records reflect nine (9) convictions under KRS 525.135 Torture of a Dog or Cat.

Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$146,389.42 to \$731,947.13

1 Class D Felon costs KY \$14,638.94 to \$73,194.71

100 Class D Felons cost KY \$1,463,894.26 to \$7,319,471.31

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 \$40.11 cost to incarcerate for the Department of Corrections, including \$35.34 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)

Under current statute, misdemeanor convictions of Torture of a Dog or Cat are subject to county costs, with the felony offenders subject to state costs.

Under the legislation, all individuals convicted of Torture of a Dog or Cat subject to incarceration would be housed at a county detention facility as a Class D felon at an average cost to incarcerate of \$40.11 per day, with the local detention center receiving \$35.34 daily reimbursement from the state.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.

10 Class A misdemeanants: \$36,096.02 to \$146,389.42

1 Class A misdemeanant: \$3,609.60 to \$14,638.94

100 Class A misdemeanants: \$360,960.22 to \$1,463,894.26

PROJECTED IMPACT FROM AMENDMENTS:

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

There is no additional impact from the HCS 1.

**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

3/6/2023

Date