

CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # HB 262 GA BR # 1227 DOC ID #: xxxx

BILL SPONSOR(S): Rep. Flannery AMENDMENT SPONSOR(S): K. Fleming, K. Timoney

TITLE: AN ACT relating to driving under the influence.

SUMMARY OF LEGISLATION: Amend KRS 189A.103 to remove references to manufacturer's instructions for breath testing equipment.

AMENDMENT: HCS 1 - Retain original provisions; amend KRS 189A.110 to require a person arrested for a violation of KRS 189A.010(1)(a), (b), or (f) to be held for at least six hours or until a breath test shows an alcohol reading of .000 percent; require a person arrested for a violation of KRS 189A.010(1)(c), (d), or (e) to be held for at least six hours; create a new section of KRS Chapter 507 to establish the crime of vehicular homicide; provide that the Act may be cited as Lily's Law; EMERGENCY.

HFA 1 - Delete and replace Section 2 of the bill; amend KRS 189A.110 to require a person arrested for a violation of driving under the influence to remain in custody for six hours prior to release.

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 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)

Changing the language referencing the manufacturer's instructions for breath testing equipment has no impact on the Department of Corrections at the state level.

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)

Changing the language referencing the manufacturer's instructions for breath testing equipment has no impact on the Department of Corrections at the local level.

PROJECTED IMPACT FROM AMENDMENTS:

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

Increasing the time limit for detaining arrestees from 4 to 6 hours will increase the length of time arrestees must be held. Arrests are subject to the jurisdiction and cost of the county.

Changing the definitions of Chapter 507 would result in an increase of individuals convicted of this offense and increase the cost of incarceration.

There is no way to predict the number of new convictions this legislation would generate. Depending on how many offenders are subject to the increased penalties under the legislation, the increased incarceration costs could fall in the moderate to significant range.

There are currently 42 inmates in custody and 65 offenders on supervision for the similarly related offense of Reckless Homicide - Class D Felony sentence is 1 to 5 years. One (1) Class D Felon costs KY \$14,638.94 to \$73,194.71. This legislation proposes for the new offense to be a Class B offense which carries a sentence of 10 to 20 years – One (1) Class B Felon costs KY \$384,094.49 to \$768,188.98.

The GA version of the bill has no additional impact.

**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

3/10/2023

Date