

CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # HB 398 Introduced BR # 1649 DOC ID #: xxxx

BILL SPONSOR(S): Rep. Flannery AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to driving under the influence and declaring an emergency.

SUMMARY OF LEGISLATION: Amend KRS 189A.010 to provide that a third or subsequent offense of driving under the influence within a 10-year period is a Class D felony; provide that if a person is convicted of a third or subsequent offense of driving under the influence the minimum term of imprisonment shall be 120 days; amend KRS 189A.110 to require a person arrested for a violation of driving under the influence to remain in custody for at least 8 hours prior to release; amend KRS 189A.040, 189A.200, 189A.240, and 281A.2102 to conform; provide the Act may be cited as Lily's Law; EMERGENCY.

AMENDMENT: .

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 \$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)

We cannot anticipate the number of new convictions; however, there are currently 221 inmates in custody for DUI 4th offense. There are also 474 offenders on supervision for DUI 4th and 126 offenders on supervision for DUI 3rd. Depending on how many offenders are subject to the new offense under the legislation, the increased incarceration costs could fall in the minimal to moderate range.

Establishing new felony offenses would impact the number of offenders potentially incarcerated and/or placed on supervision.

DUI 3rd offense would no longer be a misdemeanor but rather a Class D felony. Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. The changes to the mandatory minimums include an increase of \$4,813.20 incarceration costs for local detention centers for each DUI 3rd Offense.

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)

We cannot anticipate the number of new arrests; however, DOC believes it to be a significant increase. The removal of a minimum BAC to require an arrestee to be detained could result in all arrestees being detained, regardless of intoxication level.

The time limit for detaining arrestees is increased from 4 to 8 hours, which also increases the length of time all arrestees must be held.

DUI 3rd offense would no longer be a misdemeanor but rather a Class D felony. Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates. The changes to the mandatory minimums include an increase of \$4,813.20 incarceration costs for local detention centers for each DUI 3rd Offense.

This impacts the county inmate population of county jails, for which the county is responsible for paying.

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:  3/2/2023
Chief of Staff, Kentucky Department of Corrections Date