

# CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # HB 53 Introduced BR # 39 DOC ID #: xxxx

BILL SPONSOR(S): Rep. K. Banta AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to orders of protection.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 532 to define "qualifying offense"; allow lifetime orders of protection for victims of qualifying offenses.

**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 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 checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <i>application of protective order.</i> |  |

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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)

There is likely to be some increase to local incarceration under the legislation, though the level of impact is unknown. The impact for the Department of Corrections could be substantive due to impact on classification.

The legislation establishes a system of automatic application for an order of protection under KRS 456, unless is not wanted by the victim, if convicted of specific offenses. The conviction triggers issuance of the protection order, which may be effective for the lifetime of the victim or defendant.

Felony offenses (including inchoate offenses) under these KRS chapters would trigger the lifetime protection order:

KRS 507: Criminal Homicide

KRS 508: Assault and related offenses

KRS 509: Kidnapping and related offenses (excluding Custodial Interference)

KRS 510: Sexual Offenses

KRS 515: Robbery

KRS 531: Pornography

KRS 511: Burglary (only)

KRS 513: Arson (only)

KRS 524.055: Retaliating against a participant in the legal process (only)

KRS 530: Incest, Unlawful transaction with a minor (only)

Current statute provides for an automatic trigger for interpersonal protective orders for some offenses (KRS 508.155 & 510.037).

Violations of this lifetime protection order is a violation of KRS 456.180 Violation of a Protection Order, a Class A misdemeanor.

Per the Department's classification manual, inmates are not eligible for community custody with an active protection order. Some of the offenses identified in the legislation would already be ineligible for community custody based on the nature of the offense, but the legislation would widen the number of those restricted from community custody placement. All Class C

convictions for the above offenses would be subject to housing at a state prison facility for the duration of their sentence at a cost to incarcerate of \$105.23. Class C community custody inmates with five years or less remaining on their sentence can be housed at a local detention center at an estimated cost to incarcerate of \$40.11 with \$35.34 paid to the local detention center in per diem.

**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)

There would be a minimal to moderate impact to incarceration at the local level from this offense. Increasing the number of inmates ineligible for community classification could reduce the number of state inmates housed at the local detention center, reducing revenue for the jails.

This automatic application would increase the number of protective orders issued, which is likely to increase the number of violations of the protective orders. It is not possible to estimate how many additional offenses for Violation of Protective Order would be incurred under the legislation.

As a misdemeanor criminal penalty, the incarceration costs for violation of a protective order would be incurred at the county level.

In FY22, AOC records indicate 126 convictions for Violation of an Interpersonal Protection Order.

Currently there are twenty-one (21) individuals on Probation & Parole supervision for the offense of Violation of a Protection Order.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.  
1 Class A misdemeanor: \$3,609.60 to \$14,638.94

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

*\*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

**2/1/2023**

Date