

CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # HB 78 HCS . 1 BR # 35 DOC ID #: xxxx

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

TITLE: AN ACT relating to sex crimes.

SUMMARY OF LEGISLATION: Amend KRS 530.020 to delineate familial relationships; replace "consenting adults" with "consenting persons"; establish any nonconsenting person is a victim; make changes to enhancement requirements.

AMENDMENT: Retain original provisions; remove a first cousin as a prohibited relationship under the crime of incest.

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 changes under HB 78 would have a limited impact on incarceration. The legislation both widens and narrows the elements of the offense of Incest. Overall, the proposed modifications would not substantially change the number of convictions under this statute.

HB 78 expands the list of family members which would be included in the criminal offense of incest in KRS 530.020. Parent, child, grandparent, grandchild, great grandparent, great grandchild, nephew, niece, and first cousin, are added to ancestor, descendant, uncle, aunt, brother, and sister as currently listed in statute.

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

The legislation changes wording from adults or victim to persons. Language for commission of the offense without consent is added to Class B Incest. In addition, revisions to the minor provision stipulate an offense committed against a person under the age of eighteen (18) by a person three (3) or more years older. A reference to KRS 510.010 is added defining persons incapable of providing consent. The Class A level of Incest also adds language regarding commission of the offense without consent to the serious physical injury provision.

Incest is a sex crime under KRS 17.500, subject to sex offender registration and sex offender treatment requirements. The Class A or Class B level of this offense would be categorized as a violent offense under KRS 439.3401.

The Department of Corrections currently reflects 303 convictions within the inmate population and seventy-four (74) convictions for individuals on community supervision for the offense of Incest.

In FY2022, AOC records indicate 79 convictions under 40 cases for the offense of Incest.

Offenders convicted under KRS 530.020 are housed at a state prison facility at a cost to incarcerate of \$105.23 per day.

Cost to Incarcerate

A Class A Felony sentence is 20 years or more.

10 Class A Felons cost KY a minimum of \$7,681,889.80

1 Class A Felon costs KY a minimum of \$768,188.98
A Class B Felony sentence is 10 to 20 years.
1 Class B Felon costs KY \$384,094.49 to \$768,188.98
A Class C Felony sentence is 5 to 10 years.
1 Class C Felon costs KY \$192,047.24 to \$384,094.49

100 Class A Felons cost KY a minimum of \$76,818,898.06
10 Class B Felons cost KY \$3,840,944.90 to \$7,681,889.80
100 Class B Felons cost KY \$38,409,449.03 to \$76,818,898.06
10 Class C Felons cost KY \$1,920,472.45 to \$3,840,944.90
100 Class C Felons cost KY \$19,204,724.51 to \$38,409,449.03

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)

PROJECTED IMPACT FROM AMENDMENTS:

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

There would be no additional impact to the Department of Corrections from the committee substitute.

**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

2/27/2023

Date