

CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # SB 225 SCS 1 BR # 1618 DOC ID #: xxx

BILL SPONSOR(S): Sen. Storm AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to persistent felony offenders.

SUMMARY OF LEGISLATION: Amend KRS 532.080 to define "violent act against a person"; provide that a jury may fix an enhanced term of imprisonment when they find a defendant to be a persistent felony offender; remove the condition that an offender completed service of the sentence they were imposed within five years prior to the date of the felony that he or she now stands convicted; allow a person who is found to be a persistent felony offender in the first degree who is presently convicted of a Class A, B, or C felony to be eligible for parole if the offense was not violent or a sex crime; prohibit the conviction of possession of a controlled substance in the first degree as a prior felony; amend KRS 439.3405 to conform; RETROACTIVE.

AMENDMENT: Retain original provisions; remove definition of "violent act against a person"; remove conforming amendment.

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 checked="" type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input checked="" type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input checked="" 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)

The legislation removes the five (5) year look back period for PFO 1st and 2nd Degree, leaving only that the defendant was on community supervision, incarcerated or escaped for the prior felony at the time of the new felony for which the PFO would be imposed.

There are currently 2,665 offenders serving on PFO of those only 669 offenders have an indication that their sentence occurred while escaped, in prison, on parole/MRS.

The sentence length for current PFO offenders is 24 years in for comparison the average sentence length for current inmate population is 14 years.

Using the prison cost to incarcerate of \$105.23/day and estimating an average reduction in sentence length by ten (10) years the cost savings could be \$384,089.50/offender.

The language in this legislation changing from a "shall" to a "may" impose a PFO could impact the number of PFO sentences imposed. It should be noted that only a portion of all convictions stem from jury trials. It is not possible to predict, how many juries would elect to impose the enhanced PFO sentence.

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)

Most Persistent Felony Offenders are not eligible to be housed in a county detention center. Fewer individuals receiving PFOs under the legislation may result in additional offenders who may be eligible, based on the underlying felony and classification level, to serve their sentence in the county detention center. This provides additional revenue opportunity for jails and lower housing costs for the state.

The impact of this legislation is indeterminable as it is not possible to estimate frequency of occurrence. However, the legislation could, in fact, have a significant impact to the state and the counties.

PROJECTED IMPACT FROM AMENDMENTS:

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

SCS 1 has no additional impact to the Department of Corrections.

**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

3/9/2023

Date