

CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # SB 272 Introduced BR # 1405 DOC ID #: xxxx

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

TITLE: AN ACT relating to hate crimes.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 532 to provide an enhanced term of imprisonment for any defendant convicted of certain crimes when the defendant intentionally selected the person because of that person's actual or perceived race, color, ethnicity, national origin, religion, mental or physical disability, gender identity or expression, or sexual orientation; amend KRS 15.334 and 17.1523 to conform; create new section of KRS Chapter 508 to create the offense of using hate symbols to intimidate; repeal KRS 49.320 and 532.031.

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 checked="" type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input checked="" 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 legislation would significantly increase the sentence length for those offenses identified as a hate crime causing a significant increase to cost of incarceration. It is not possible to predict how many convictions would be designated as a hate crime. While the number may be few, there would be a significant increase in the number of days incarcerated and the associated incarceration costs.

When a defendant has been found to have intentionally committed an offense identified as a hate crime his or her sentence for the underlying offense shall be enhanced as follows:

- For a Class D felony, the term of imprisonment shall be increased by one (1) to five (5) years. Offenders convicted of a hate crime under the legislation would not be eligible for jail housing and would require placement at a state prison facility at a cost of \$105.23 per day. The estimated cost of one (1) Class D felon with an enhanced sentence is an additional \$38,408.95 for 1-year enhancement to \$192,044.75 for 5-year enhancement. The estimated cost of ten (10) Class D felons with an enhanced sentence is an additional \$384,089.50 for 1-year enhancement to \$1,920,447.50 for 5-year enhancement.
- For a Class C felony, the term of imprisonment shall be increased by five (5) to ten (10) years. The estimated cost of one (1) Class C felon with an enhanced sentence is an additional \$192,047.25 for 5-year enhancement to \$384,094.49 for 10-year enhancement. The estimated cost of ten (10) Class C felons with an enhanced sentence is an additional \$1,920,472.45 for 5-year enhancement to \$3,840,944.90 for 10-year enhancement.

- For a Class A or B felony, the term of imprisonment shall be increased by ten (10) to twenty (20) years. The estimated cost of one (1) Class A or B felon with an enhanced sentence is an additional \$384,094.49 for 10-year enhancement to \$768,188.98 for 20-year enhancement. The estimated cost of ten (10) Class A or B felons with an enhanced sentence is an additional \$3,840,944.90 for 10-year enhancement to \$7,681,889.81 for 20-year enhancement.

In addition to the sentencing enhancement, offenders designated under this legislation would be subject to a term of imprisonment with no possibility of parole or other form of early release. Due to the prohibition for community supervision - probation, shock probation, conditional discharge, parole, or any other form of early release, offenders would be subject to a term of imprisonment that is significantly longer than underlying offense.

New offenses would need to be added to the Kentucky Offender Management System however, this level of effort would require multiple changes and additional charges which could potentially be a work order due to the volume of charges involved. Similar work orders to modify sentence calculations in 2021 & 2022 range between \$13,800.00 and \$92,000.00.

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)

This legislation would have an increase for both the misdemeanor incarcerated population as well as state inmates housed in a county jail.

If the underlying offense is a Class A or B misdemeanor, the term of imprisonment would be increased by at least half of the maximum imprisonment sentence for that misdemeanor.

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:  _____ 3/9/2023
 Chief of Staff, Kentucky Department of Corrections Date