

# CORRECTIONS IMPACT STATEMENT

SESSION: 24RS BILL #: SB 20 SCS 1 BR #: 60

BILL SPONSOR(S): Sen. M. Deneen

AMENDMENT SPONSOR(S):

TITLE: AN ACT relating to crimes and punishments.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to include in the definition of "violent offender" a person who has been convicted of burglary in the first degree as described in KRS 511.020(1)(a), assault in the second degree as described in KRS 508.020(1)(b) or (c), and wanton endangerment in the first degree as described in KRS 508.060 involving the discharge of a firearm; remove the requirement that the victim of a Class B felony involving criminal attempt to commit murder shall be a clearly identifiable peace officer, firefighter, or emergency medical services provider acting in the line of duty; provide that a violent offender who is convicted of a Class C felony violation of wanton endangerment in the first degree and assault in the second degree as described in KRS 508.020(1)(b) or (c) shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least 65 percent of the sentence imposed; amend KRS 508.060 to enhance wanton endangerment in the first degree if the person discharges a firearm in the commission of the offense; amend KRS 635.020 to provide that if a child is 15 years of age or older and is charged with a felony involving the use of a firearm then he or she shall be transferred to Circuit Court to be tried as an adult; provide that a child who has been convicted of a felony involving the use of a firearm shall not be eligible for probation or conditional discharge in a proceeding consistent with KRS 640.030.

**AMENDMENT: SCS 1:** Retain original provisions, except amend KRS 635.020 to provide that a child who was 15 years of age or older at the time of a Class A, B, or C felony offense involving the use of a firearm shall be confined in a facility for juveniles or youthful offenders; provide that the Commonwealth's attorney may transfer the case back to District Court after consulting with the county attorney.

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact

Have no Corrections impact.

Creates new crime(s)

Repeals existing crime(s)

Increases penalty for existing crime(s)

Decreases penalty for existing crime(s)

Increases incarceration

Decreases incarceration.

Reduces inmate/offender services

Increases inmate/offender services.

Increases staff time or positions

Reduces staff time or positions.

Changes elements of the offense for existing crime(s)

Otherwise impacts incarceration (Explain):

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**STATE IMPACT:** Class A, B, & C felonies are based on an average daily prison rate of \$116.93. 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 jail is \$44.97 per day, which includes \$35.34 per diem, medical costs, and central office administrative costs (substance abuse treatment not included).\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

The legislation would likely have a significant impact on incarceration costs by expanding the definition of "violent offender". The necessary appropriations associated with the costs estimated in this corrections impact statement require a continuation of current service funding for adult correctional institutions.

There would be and impact for the following offenses:

Burglary 1<sup>st</sup> degree as described in KRS 511.020(1)(a) – currently 881 inmates in custody.

Assault 2<sup>nd</sup> degree as described in KRS 508.020(1)(b) or (c) – currently 1,161\* inmates in custody.

Wanton Endangerment 1st degree as described in KRS 508.060 – currently 2,463\* inmates in custody.

\* DOC is not able to determine if the current offenders used a weapon in the offense. As a result, not everyone currently incarcerated on these offenses would qualify as a violent offender under the bill.

Additionally, offenders convicted of Wanton Endangerment 1<sup>st</sup> degree and Assault 2<sup>nd</sup> degree shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least 65 percent of the sentence imposed.

The average sentence length served for offenders serving on Assault 2<sup>nd</sup> would increase from (20%) 590 days to (65%) 1918 days - an additional 1328 days per offender. The average sentence length served for offenders serving on Wanton Endangerment 1<sup>st</sup> would increase from (20%) 323 days to (65%) 1050 days - an additional 727 days per offender.

Class C felons may still be able to serve their time in a county jail, but only if community custody.

A Class C Felony sentence is 5 to 10 years – One (1) Class C Felon costs KY \$213,397.25 to \$426,794.50.

Class D felons are housed in a county jail and DOC pays counties a per diem for housing those inmates.

A Class D Felony sentence is 1 to 5 years – One (1) Class D Felon costs KY \$16,414.05 to \$82,070.25.

New sentence calculation formulas would need to be added to the Kentucky Offender Management System (KOMS). The most recent modification to KOMS regarding the calculation of violent offenders cost \$92,000.00. At a minimum, the cost would be similar.

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until the disposition of the case. The estimated impact will be based on the \$44.97 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)

The legislation would likely have a moderate to significant impact on incarceration costs at the local level.

There are currently 106 inmates serving on Burglary 1<sup>st</sup> in a reduced custody setting that if a weapon was involved would be placed in a secure bed and subject to longer sentences.

Expanding the definition of violent offender and requiring violent class C felons to serve 65% will likely impact the controlled intake population housed in county jails. Longer prison sentences increase the length of stay and ultimately prison bed space.

Changing Wanton Endangerment 1<sup>st</sup> degree with a firearm to a Class C will impact inmate housing. Offenders may qualify for Class C in jail depending on other factors or they may require a prison bed.

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**PROJECTED IMPACT FROM AMENDMENTS:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

**SCS 1:** The projected cost of KOMS changes would no longer be needed by utilizing existing time computation rules of 50% as opposed to 65%.

The substitution changes the criteria that lead to trial as an adult. It now states must be Class A, B, or C felony as the previous language had all felonies. This would reduce the number of juveniles tried as an adult from the previous version.

*\*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, lengthen the term of incarceration, or impose new obligations on state or local governments.



**APPROVED BY:**

Chief of Staff, Kentucky Department of Corrections

**2/28/2024**

Date