

CORRECTIONS IMPACT STATEMENT

SESSION: 24RS BILL #: SB 71 HCS 1 BR #: 1435

BILL SPONSOR(S): Sen. P. Wheeler, J. Higdon

AMENDMENT SPONSOR(S):

TITLE: AN ACT relating to treatment programs.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 222 to define "voluntarily"; require treatment centers or programs licensed as a chemical dependency treatment service to provide transportation services to residents who wish to voluntarily leave the program if the resident's family, guardian, or emergency contact does not agree to transport them; outline transportation service responsibilities; prohibit facilities and law enforcement officers from taking the residents to any location other than public transportation locations, locations to meet the driver of a ride-sharing service, or the resident's home; require that the facilities conduct a search of any outstanding warrants; exempt all chemical dependency treatment service facilities holding a license issued in accordance with KRS 216B.042; require the facility to notify family members, the county attorney, local law enforcement, and the court that a resident left the treatment facility in violation of a court order; and allow a peace officer or a probation officer to arrest a resident without a warrant for violating the terms of the resident's conditional discharge or court order.

SCS 1: Retain original provisions; amend the definition of "voluntarily"; include any substance use disorder program authorized or regulated under KRS Chapter 222 and recovery residence as defined in KRS 222.500; amend the provision regarding the responsibilities of the chemical dependency treatment service after it is informed a resident wishes to leave voluntarily; include an additional location to drop off the resident; require the facility to notify family members, the county attorney, and local law enforcement if permitted by federal law; remove the provision requiring the facility to conduct a search of any outstanding warrants; create a new section of KRS Chapter 222 to establish fines.

HCS 1: Retain original provisions, except remove the definition of "voluntarily"; amend provision to increase penalties; remove the provision requiring probation officers or peace officers to arrest the resident without a warrant if the resident violates a court order and permit the officers to arrest the resident without a warrant; remove resident's family as a point of contact and replace it with the resident's emergency contact or court designated individual; include a new provision to prohibit facilities from knowingly recruiting into their facility any out-of-state resident if the out-of-state resident is enrolled in Medicaid or with the purpose of enrolling the out-of-state resident in Medicaid in Kentucky; require facilities to submit to the Department for Medicaid Services a recipient's proof of residency when submitting a request for Medicaid reimbursement if the facility is aware that the resident resided in another state within the past month; create a new section of KRS Chapter 222 to define "department," "qualified treatment program," and "treatment program"; require the Cabinet for Health and Family Services to publish a list of all qualified treatment programs and to post the list on its website and to send the list to the department of public advocacy and to the Administrative Office of the Courts; require state employees who make recommendations to a court for an alternative sentence to prioritize referrals to qualified treatment programs; allow legal counsel to recommend a treatment provider that is not a qualified treatment program but establish reporting requirements; require the Cabinet for Health and Family Services to promulgate administrative regulations; require facilities to provide full disclosure of the services they provide; create a new section of KRS Chapter 222 to prohibit any person from receiving kickbacks for referrals into treatment facilities, establish protections, exemptions, and penalties; create a new section of KRS Chapter 31 to define "alternative sentencing worker," "qualified treatment program," and "treatment program"; allow a court to issue an order for pretrial release pending an assessment for a mental health or substance use disorder and allow the prosecution to object; require that a needs assessment be conducted within 48 hours and establish who may conduct the needs assessment; require a treatment plan to be developed by a qualified health professional who is employed by a treatment program; allow a court to approve the treatment plan without a hearing or allow the court to schedule a hearing; allow the court to put conditions on the pretrial release; require the department of public advocacy and defense counsel to consider all appropriate and competent facilities and not discriminate against any facility based on religious content and allow facilities or programs to be recommended if they are consistent with a client's personal religious belief; amend KRS 31.030 to require the department of public advocacy to submit a report; require alternative sentencing worker to complete continuing education related to substance use disorder and to comply with the kickback provisions; amend KRS 205.200, relating to residency requirements for Medicaid, to prohibit relocation to Kentucky solely for receiving medical services using Medicaid and allow an individual to submit proof of residency; amend KRS 202A.011 to define "contract mental health evaluator"; amend KRS 202A.041 to replace "qualified mental health professional" with "contract mental health evaluator," no longer require a peace officer to take an individual into custody and transport them but to permit a police officer to take an individual into custody and transport

them, reduce state compensation by five percent for every ten minutes a sheriff or other peace officer is required to remain with the person after first delay of contact, and require transportation if no probable cause for arrest exists.

AMENDMENT:

This bill amendment committee substitute is expected to:

Have the following Corrections impact

- Creates new crime(s)
- Increases penalty for existing crime(s)
- Increases incarceration
- Reduces inmate/offender services
- Increases staff time or positions
- Changes elements of the offense for existing crime(s)
- Otherwise impacts incarceration (Explain):

Have no Corrections impact.

- Repeals existing crime(s)
- Decreases penalty for existing crime(s)
- Decreases incarceration.
- Increases inmate/offender services.
- Reduces staff time or positions.

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)

None

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 requirement to remain in jail until a hearing may involve an assessment to be completed by Social Services Clinician.

The cost to house an offender in jail pending a violation hearing is \$44.97 per day.

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

SCS 1: There is no additional impact from SCS 1. The requirement for warrant checks mentioned in the bill as introduced has been removed.

HCS 1: The HCS establishes that any person who violates the provisions of this section shall be guilty of a Class A misdemeanor for each offense unless the aggregation is valued at one thousand dollars (\$1,000) or more, in which case it would be a Class D felony.

Misdemeanor offenders are subject to the jurisdiction and cost of the county. A Class A misdemeanor is 90 days to 1 year in jail. One (1) Class A misdemeanant costs \$4,047.30 to \$16,414.05.

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.

Section 3 references the qualifications of the substance abuse program. However, it should be noted that only Evidence-based Programs approved by the Department of Corrections are eligible for sentence credits.

**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

3/27/2024

Date