

CORRECTIONS IMPACT STATEMENT

SESSION: 25RS BILL #: HB 38

SCS 1/SFA 1

BR #: 58

BILL SPONSOR(S): Rep. J. Tipton

AMENDMENT SPONSOR(S): B. Storm

TITLE: AN ACT relating to orders of protection.

SUMMARY OF LEGISLATION: Amend KRS 403.763 and 456.180 to enhance criminal penalties for repeated violations of an order of protection; establish what constitutes a repeated violation.

AMENDMENT: HCS 1 - Retain original provisions, require that the third or subsequent conviction of a violation of an order of protection under KRS 403.763 or 456.180 to be a Class D felony only if the third or subsequent violation involves the use or attempted use of physical force or threat of physical harm, and the victim of each offense is the same person.

GA - No changes

SCS 1 - Retain original provisions; amend KRS 403.735, relating to continuance of an emergency protective order, to allow the petitioner to be excused from future court appearances until the respondent has been served; amend KRS 456.050, relating to continuance of an interpersonal protective order, to allow the petitioner to be excused from future court appearances until the respondent has been served.

SFA 1 - Retain original provisions; establish that a violation of an order of protection under KRS 403.763(4)(a), 456.180(4)(a), 508.155, or 510.037 shall provide a basis for the enhanced penalty for a third violation; remove the requirement that the protected person in a third or subsequent violation is the same protected person.

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):

STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$122.84. 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 \$47.43 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 very minimal increase on operational costs at the state level by creating a new Class D felony that was previously a Class A misdemeanor.

For offenders with subsequent violations, this cost would increase to the following:

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 \$17,313.27 to \$86,566.34.
- Ten (10) Class D Felons cost KY \$173,132.67 to \$865,663.37.
- One hundred (100) Class D Felons cost KY \$1,731,326.74 to \$8,656,633.71.

There are currently zero (0) inmates in custody and 550 offenders on supervision for violations of a protective order. The population statistics are being provided to offer a reference for the number of offenders who commit similar crimes.

Population counts and offender data are sourced from the Kentucky Offender Management System (KOMS). Cost to Incarcerate can be found on corrections.ky.gov/public-information.

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 \$47.43 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)

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

HCS 1 - No additional impact from HCS 1. For offenders with subsequent violations with the circumstance proposal in the HCS 1, the cost would increase to the following:

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- One hundred (100) Class D Felons cost KY \$1,731,326.74 to \$8,656,633.71.

GA – No additional changes

SCS 1 – No additional impact

SFA 1 - Senate floor amendment 1 could result in a slight fiscal increase by expanding the scope of offenses that would be eligible for the increased penalty.

**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.

