

CORRECTIONS IMPACT STATEMENT

SESSION: 25RS BILL #: HB 92 Introduced

BR #: 496

BILL SPONSOR(S): Rep. DJ Johnson, K. Banta, K. King

AMENDMENT SPONSOR(S):

TITLE: AN ACT relating to possession or viewing of matter portraying a sexual performance by a minor.

SUMMARY OF LEGISLATION: Amend KRS 531.335, relating to possession or viewing of matter portraying a sexual performance by a minor, to provide that the sexual performance may be by a computer-generated image of a minor; provide that any person convicted of possession or viewing of matter portraying a sexual performance by a minor shall not be released on probation or parole without serving 85 percent of the sentence imposed.

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 \$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 in operational costs at the state level. DOC expects very few additional convictions but do not have the data to estimate how many offenders would be impacted by the inclusion of computer-generated images.

This bill would require a change to the Kentucky Offender Management System (KOMS) to accommodate the new offense and the designation of 85%. This level of work would require a change order approximately \$7000.

This offense is already considered a sex offense and requires completion of the Sex Offender Treatment Program. Increasing the sentence to 85% would have a very minimal impact on costs.

In 2024, approximately 97 offenders received new sentences for offenses that fall under the statutes of Possession Of Matter Portray Sex Performance By Minor.

Class D sex offenders would be jail-eligible if the sentence is less than 2 years. DOC pays counties a per diem for housing those inmates.

- 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.

Class C felons would still be able to serve their time in a county jail, but only if they are community custody. DOC would pay counties for housing those inmates. A Class C Felony sentence is 5 to 10 years.

- One (1) Class C Felon costs KY \$224,186.94 to \$448,373.88.

- Ten (10) Class C Felons cost KY \$2,241,869.38 to \$4,483,738.77.
- One hundred (100) Class C Felons cost KY \$22,418,693.84 to \$44,837,387.68.

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)

The legislation would likely have a very minimal increase in operational costs at the local level as very few additional convictions are expected.

Class D sex offenders would be jail-eligible if the sentence is less than 2 years. DOC pays counties a per diem for housing those inmates.

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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.

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

APPROVED BY:  **1/28/2025**
 Commissioner, Kentucky Department of Corrections Date