

CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 209 Introduced

BR #: 1142

DOC ID#: XXXX

BILL SPONSOR(S): Rep. A. Scott

AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to the possession of firearms by persons found to have committed hate crimes.

SUMMARY OF LEGISLATION: Create a new Class D felony in KRS Chapter 527 to prohibit people convicted of a hate crime from possessing firearms.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no 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 offense for existing crime(s)

Otherwise impacts incarceration (Explain) _____

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 \$70.12. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.45 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

Projected Impact:

NONE

MODERATE (< \$1 million)

SIGNIFICANT (> \$1 million)

HB 209 creates a new Class D felony of possession of a firearm by a person found to have committed a hate crime. A person who possesses, manufactures, or transports a firearms after being found by the sentencing judge to have committed a hate crime under KRS 532.031 would be guilty of the offense of possession of a firearm by a person found to have committed a hate crime. Individuals who have been granted a pardon or received their gun rights back would be exempt. To qualify, the hate crime would need to be committed on or after the effective date of the legislation.

The Department does not track individuals who have been designated by the sentencing court as having committed a hate crime. Therefore the number of possible offenders subject to the firearm restriction imposed by this legislation is unknown. KRS 532.031 includes several criminal offenses for which a violation of may be designated as a hate crime, including both felony and misdemeanor offenses. Felony offenders regardless of a hate crime designation would not, by the nature of the felony conviction, be able to possess a firearm.

Under the proposed legislation, offenders identified as committing a hate crime through certain misdemeanor offenses would be prohibited from possession of a firearm: KRS 508.030 Assault 4th Degree, KRS 508.050 Menacing, KRS 510.100 Sodomy 4th Degree, KRS 512.050 Criminal Use of Noxious Substance, KRS 512.060 Criminal Possession of Noxious Substance, KRS 525.050 Unlawful Assembly, KRS 525.060 Disorderly Conduct 2nd Degree, KRS 525.070 Harassment, and KRS 525.080 Harassing Communications.

It is not known how many additional offenders this legislation would bring. However, the number of offenders committing the offense of possessing a weapon after being convicted of a hate crime would be a much smaller amount than Possession of Firearm or Handgun by a Convicted Felon (KRS 527.040). The Department currently has 2,288 offenders incarcerated and 2,258 offenders on supervision for the offense of Possession of Firearm or Handgun by a Convicted Felon.

A Class D Felony sentence is 1 to 5 years.

1 Class D Felon costs KY \$11,481 to \$57,404

10 Class D Felons cost KY \$114,808 to \$574,040

100 Class D Felons cost KY \$1.1M to \$5.7M

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. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Projected Impact:

NONE

MODERATE (< \$1 million)

SIGNIFICANT (> \$1 million)

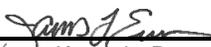
Offenders incarcerated on the Class D felony offense established under this legislation would be subject to a state sentence served in the local detention facility. Any increase to jail population impacts local bed space; however, the class D offender would also provide additional revenue for the county jails. The number of offenders anticipated under HB 209 is indeterminate, but not expected to be significant.

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 or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY:



Commissioner, Kentucky Department of Corrections

1/25/2018

Date