

CORRECTIONS IMPACT STATEMENT

SESSION: 18RS BILL #: HB 544 Introduced BR #: 1665 DOC ID#: BR166500.100 - 1665 - XXXX

BILL SPONSOR(S): Rep. J. Jenkins, M. Marzian, G. Brown Jr, J. Donohue, K. Flood

AMENDMENT SPONSOR(S):

SUBJECT: AN ACT relating to extreme risk protective orders.

SUMMARY OF LEGISLATION: Create new sections of KRS Chapter 237 to allow persons to petition in District Court for one-year extreme risk protective orders when the petitioner believes a respondent poses a significant danger of causing personal injury to themselves or others through owning, purchasing, possessing, or receiving a firearm or ammunition; establish procedures under which a temporary ex parte protective order could be issued; establish procedures for the filing, review, hearing, and possible extension of the petition; prescribe issuance and service procedures of a resulting protective order; establish procedures for the surrender, storage, and return of firearms and ammunition; establish penalties.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|--|--|
| <input checked="" type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____ | |

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)

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)

HB 544 creates a one (1) year extreme risk protective order when the petitioner believes a respondent poses a significant danger of causing personal injury to themselves or others through a firearm. Under a one (1) year extreme risk protective order the respondent could not own, purchase, possess, or have in his or her custody or control any firearms or ammunition. The protective order may be renewed for a period of one (1) year. The extreme risk protective order shall be entered into the Law Information Network of Kentucky (LINK) and made available in the National Instant Criminal Background Check System (NICS).

In addition to establishing procedures for the filing, issuance, and petition hearing, the bill provides procedures for the surrender and subsequent return of firearms and ammunition. If the Court has probable cause to believe an individual under an extreme risk protective order has not surrendered all weapons or possessed firearms or ammunition while subject to the prohibition under the protective order, the individual shall be subject to a search warrant and seizure. The respondent may be charged a reasonable fee for storage of the firearm and ammunition surrendered.

For a respondent who does not wish to have the firearms or ammunition returned, or who is no longer eligible to own or possess firearms or ammunition may sell or transfer ownership to a licensed firearms dealer. There are instructions for disposal of unclaimed items.

A false petition for an extreme risk protective order known to be materially false or with an intent to harass shall be a Class A misdemeanor. An individual restricted from firearms or ammunition under an extreme risk protective order who owns, purchases,

possesses, or has in his or her custody and control a firearm or ammunition shall be subject to a Class A misdemeanor. Additionally, he or she shall be prohibited from firearms or ammunition for five (5) years.

Currently, the Department has 322 offenders on supervision for violation of an emergency protection or domestic violence order under KRS 403.763 or violation of an interpersonal protection order under KRS 456.180.

AOC records indicate 29,869 Interpersonal Protective Orders, Emergency Protection Orders, and Domestic Violent Orders in FY 2017. Additionally, in FY 2017, there are 2,141 convictions statewide for Violation of an Emergency Protective Order or Domestic Violence Order.

It is not known how many extreme risk protective orders would be issued. Further, it is not known how many individuals would possession a firearm or ammunition in violation of an extreme risk protective order. The number of false petitions is not expected to be significant.

Overall, it is unknown how many offenders would receive a conviction under this legislation and would be subject to incarceration. Due to limited capacity, any number of additional offenders does impact local jail populations.

A Class A misdemeanor is 90 days to 1 year in jail

10 Class A misdemeanants: \$28,206 to \$114,391

1 Class A misdemeanant: \$2,821 to \$11,439

100 Class A misdemeanants: \$282,060 to \$1,143,910

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

3/16/2018

Date