

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: SB 210 GA

BR #: 1857

DOC ID#: BR185700.100 - 1857 - XXXX

**BILL SPONSOR(S):** Sen. D. Seum      **AMENDMENT SPONSOR(S):** Sen. D. Seum

**SUBJECT:** AN ACT relating to possession of a firearm by a felon.

**SUMMARY OF LEGISLATION:** Amend KRS 527.040 to increase the penalties for possession of a firearm by a convicted felon when the felon commits a crime outside of this section that involves a firearm and the person has a prior conviction under this section.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact     Have no Corrections impact

- |   |  |
|---|--|
| <input type="checkbox"/> Creates new crime(s)                               | <input type="checkbox"/> Repeals existing crime(s)               |
| <input checked="" 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)

SB 210 amends KRS 527.040 to increase the penalties for possession of a firearm by a convicted felon when the felon commits a crime that involves a firearm. If a felon is convicted of a criminal offense other than possession of a firearm and he possesses a firearm in furtherance of an offense, then the offender shall be raised one offense class higher if it is a second or subsequent violation.

Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun, in which case it is a Class C felony. Application of the enhancement outlined in SB 210 would raise these offense levels to Class C and Class B, respectively.

In FY 2017 there were 703 convictions statewide for Class D Convicted Felon in Possession of a Firearm and 595 convictions for Class C Convicted Felon in Possession of a Handgun, including inchoate offenses. This offense does not indicate if it is a first, second, or subsequent violation.

For comparison purposes, there is a similar enhancement under KRS 218A.992 involving possession of a firearm at the commission of a drug offense. In FY 2017 AOC records indicate 384 convictions under KRS 218A.992 subject to the firearms enhancement.

Class B offenders under SB 210 will be subject to incarceration costs of \$70.12 a day. Class C offenders may be subject to community custody classification with housing at a county jail at \$31.34 per day. If not eligible for community custody, Class C offenders would also be housed at a prison facility at a cost of \$70.12 per day.

The impact of this bill is indeterminate as it is not known how many offenders would be subject to this enhancement. Overall, however, the raising of the offense level will significantly impact incarceration lengths and associated incarceration costs.

Senate Floor Amendment:

The Floor Amendment specifies that the firearm which is possessed as an element of the underlying offense is used in commission of an offense, rather than the furtherance of an offense.

There is no significant impact to the Department of Corrections under the Senate Floor Amendment.

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|---|--|
| A Class D Felony sentence is 1 to 5 years.    | 10 Class D Felons cost KY \$114,808 to \$574,040 |
| 1 Class D Felon costs KY \$11,481 to \$57,404 | 100 Class D Felons cost KY \$1.1M to \$5.7M      |
| A Class B Felony sentence is 10 to 20 years.  | 10 Class B Felons cost KY \$2.6M to \$5.1M       |

1 Class B Felon costs KY \$255,944 to \$511,889

100 Class B Felons cost KY \$25.6M to \$51.2M

**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)

Under the legislation, based on the enhancement, fewer offenders with a conviction of Convicted Felon in Possession of a Firearm or Convicted Felon in Possession of a Handgun may be eligible for service of the state sentence in a county jail facility.

To be eligible for community custody, Class C offenders would have to be classified at the lowest custody level with eighteen (18) months or less to expiration or parole eligibility.

A reduction in state inmates housed at a county jail would assist in reduction of overcrowding but also reduces revenue for jails in the form of per diem.

The impact to local jails under this legislation is indeterminate.

**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:**

  
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Commissioner, Kentucky Department of Corrections

**3/19/2018**  
Date