## Local Government Mandate Statement Kentucky Legislative Research Commission 2018 Regular Session

## **Part I: Measure Information**

| Bill Request #: 1857   |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
| Bill #: SB 210 GA  |  |  |  |  |  |  |
| <b>Document ID</b> #:7034  |  |  |  |  |  |  |
| Bill Subject/Title:   AN ACT relating to possession of a firearm by a felon.     |  |  |  |  |  |  |
| Sponsor: Senator Dan "Malano" Seum   |  |  |  |  |  |  |
| Unit of Government: X City X County X Urban-County   Unified Local               |  |  |  |  |  |  |
| X Charter County X Consolidated Local X Government                               |  |  |  |  |  |  |
| Office(s) Impacted: Local Jails  |  |  |  |  |  |  |
| Requirement: X Mandatory Optional  |  |  |  |  |  |  |
| Effect on<br>Powers & Duties: X Modifies Existing X Adds New Eliminates Existing |  |  |  |  |  |  |

## Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

SB 210 GA amends KRS 527.040 to increase the penalty imposed upon a felon, for possession of a firearm by a convicted felon, when used in the commission of another crime for a second or subsequent violation of this section. In each new case, the step up in penalty adds time to potential incarcerations. It is possible that this enhancement may take the offense to the level included in the violent offender statute, but that would likely only occur if the offense involved death or serious physical injury to the victim.

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 provided for in SB 210 GA would raise the offense level for a second or subsequent violation, would cause this to rise to Class C and Class B felony offenses, respectively.

When a court denies bail to a Class D or Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of

Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders.

Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence.

Class B felons are not eligible to be housed in local jails. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date.

The Department of Corrections pays a jail \$31.34 per day to house a D or C felon. Since the per diem pays for the estimated average cost of housing a Class D or Class C felon, the per diem may be less than, equal to, or greater than the actual housing cost.

In Circuit court for calendar year 2017, there were 617 Class C felony convictions for "prior felon in possession of a firearm". There were 598 Class D felony convictions for the same offense. SB 210 GA could potentially raise the Class C to Class B and the Class D to Class C. The overall fiscal impact to local jails would be minimal as Class B and C felons are not typically housed in local jails. However, local jails could potentially lose revenue from not housing as many Class D felony convictions due to the higher classification penalty associated with these offenses.

## Part III: Differences to Local Government Mandate Statement from Prior Versions

SB 210 GA incorporates HFA 2 to amend SB 210 to specify that the firearm which is possessed as an element of the underlying is used in **commission** of an offense, rather than the **furtherance** of an offense. **The LM statement to SB 210 GA is the same as the LM statement to SB 210.** 

**Data Source(s):** <u>Department of Corrections, Administrative Office of the Courts</u>

| <b>Preparer:</b> | Mark Offerman | <b>Reviewer:</b> | KHC | Date: | 3/15/18 |
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