

## CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 130 GA . BR # 895 DOC ID #: HB013010.100 - 895 - XXXX

BILL SPONSOR(S): Rep. J. Tipton, R. Rothenburger, D. Bentley, J. Blanton, C. Fugate, D. Hale, K. King, K. Moser, P. Pratt, M. Prunty, D. St. Onge AMENDMENT SPONSOR(S): Rep. J. Nemes

SUBJECT: AN ACT relating to terroristic threatening.

**SUMMARY OF LEGISLATION:** Amend KRS 508.078 to include public gatherings, places of public accommodation, churches, and places of worship as places covered by the offense of terroristic threatening in the second degree; raise the penalty for terroristic threatening in the second degree to a Class C felony when the person engages in conduct to prepare for or carry out the threatened act.

**AMENDMENT:** Amend KRS 508.078 to raise the penalty for terroristic threatening in the second degree to a Class C felony when the person engages in substantial conduct to prepare for or carry out the threatened act; specify that the provisions of KRS 6.945(1) do not apply.

**AMENDMENT:** Retain original provisions; add "places of worship" and "scheduled, publicly advertised event open to the public" to the places covered by the offense of terroristic threatening in the second degree.

---

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 type="checkbox"/> Increases penalty for existing crime(s)                      | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input checked="" 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 checked="" 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 \$71.10. 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 \$32.78 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  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

HB 130 amends KRS 508.078 Terroristic Threatening 2<sup>nd</sup> Degree. The statute speaks to threats against persons at scheduled publicly advertised events open to the public; any place of worship; or school functions.

Under current statute, Terroristic Threatening 2<sup>nd</sup> Degree is a Class D felony.

This legislation establishes Terroristic Threatening 2<sup>nd</sup> Degree as a Class C felony when an individual 1) threatens to commit acts likely to result in death or serious physical injury to persons at public events, places of worship, or school functions and 2) the person intentionally engages in preparations to carry out the threat (ex: gathering weapons, ammunition, body armor, vehicles, or materials required to manufacture a weapon of mass destruction).

Restrictions under KRS 6.945(1) shall not apply to this legislation.

Department of Corrections records show nine (9) offenders incarcerated and thirty-one (31) offenders on supervision for the offense of Terroristic Threatening 2<sup>nd</sup> Degree.

AOC records reveal nine (9) convictions for Terroristic Threatening 2<sup>nd</sup> Degree in FY2018, including inchoate offenses.

The additional Class C felony offense under this bill would provide for longer sentences and the associated incarceration costs. Class D offenders serve the period of incarceration at the county jail at a daily cost of \$31.34. While Class C offenders, depending on their custody classification, would serve their sentence either at a county jail or a state prison, with the higher daily cost of \$71.10.

It is not anticipated that there would be a significant number of convictions under the Class C level of this offense. As such, the legislation would not be expected to have a large impact on incarceration.

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1.3M to \$2.6M
1 Class C Felon costs KY \$129,753 to \$259,506	100 Class C Felons cost KY \$13M to \$26M
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$119,649 to \$598,244
1 Class D Felon costs KY \$11,965 to \$59,824	100 Class D Felons cost KY \$1.2M to \$6M

**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  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

Class D offenders under Terroristic Threatening 2<sup>nd</sup> Degree would serve their sentence in a county jail at a cost to the state of \$31.34 per day to the local jail.

As a Class C felony, Terroristic Threatening 2<sup>nd</sup> Degree offenders may be eligible to serve their sentences at the county jail if qualifying for community custody, based on length of sentence remaining and custody classification. This provides additional revenue for jails. However, in times of current overcrowding any additional incarceration has an impact on the occupancy of jail beds.

Overall, the impact to local incarceration from this legislation would be minimal.

#### **Corrections Impact from Amendments:**

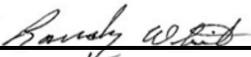
The Committee Substitute removes public gatherings, places of public accommodations, and places of worship from the legislation. In comparison to the original bill as filed, the Committee Substitute would substantially reduce the number of offenses generated.

Under the House Floor Amendment, places of worship and public events are returned to the legislation. While the scope of application is widened under the Floor Amendment, the impact to Corrections from the bill largely remains the same.

#### **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:**  **2/28/2019**  
Deputy Commissioner, Kentucky Department of Corrections Date