

## CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 132 GA BR # 85 DOC ID #: xxxx

BILL SPONSOR(S): Rep. M. Meredith AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to violent offenders.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to provide that any person convicted of manslaughter in the second degree, reckless homicide, or criminal attempt to commit murder of clearly identifiable emergency medical services personnel shall serve at least 85 percent of the sentence before probation or parole.

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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 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 type="checkbox"/> Changes elements of offense for existing crime(s)  |  |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) .        |  |
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**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 132 modifies the violent offender statute to include the death of emergency medical services personnel acting in the line of duty to Attempted Murder, Manslaughter 2<sup>nd</sup> Degree, and Reckless Homicide.

The statute currently reflects the offenses of Manslaughter 2<sup>nd</sup> Degree and Reckless Homicide where the victim is a peace officer or firefighter killed in the line of duty, and Attempted Murder where the victim is a clearly identifiable peace officer or firefighter regardless of whether injury occurs.

Under KRS 439.3401 and proposed legislation, Manslaughter 2<sup>nd</sup> Degree where the victim was clearly identifiable as a peace officer, emergency medical services personnel, or firefighter acting in the line of duty requires 85% service of the sentence prior to reaching parole eligibility.

Under KRS 439.3401 and proposed legislation, Manslaughter 2<sup>nd</sup> Degree and Reckless Homicide of a peace officer, emergency medical services personnel, or firefighter acting in the line of duty requires 50% service of the sentence prior to reaching parole eligibility.

AOC records indicate for FY2018, eight (8) convictions for attempted murder of a police officer. There were seventy-four (74) convictions for Manslaughter 2<sup>nd</sup> Degree and twenty-seven (27) convictions for Reckless Homicide. Department of Corrections currently has 265 inmates serving on Manslaughter 2<sup>nd</sup> Degree and forty-eight (48) serving on Reckless Homicide. It is not known how many of them would involve the death of an emergency medical service personnel, though it is expected that the number would be minimal.

Adding an offense as a violent offense adds to the length of time an offender is in secure custody prior to eligibility for lower custody levels as well as additional time to be served prior to eligibility for release.

Many of the inmates currently serving on these offenses may be currently housed in reduced custody at a minimum custody facility or a county jail facility, depending on the offense level. An offender serving on a Class B felony may be housed at a minimum security facility or a halfway house at a lower cost to incarcerate. Based on length of sentence remaining and custody classification, Class C offenders may be eligible to serve their sentences at the county jail. Under the legislation, as a violent offender, offenders may serve longer before they would be eligible for reduced custody.

The Department currently has 184 non-violent inmates on Attempted Murder. The average sentence length for these convictions is 16.7 years. Using the current average sentence length, an offender sentenced under the proposed changes in this legislation would serve an additional 3,956 days to 85% parole eligibility. Using the cost to incarcerate at the prison rate of \$71.10, this would be an additional cost of \$281,272 per person.

The average sentence length for Class C Manslaughter 2<sup>nd</sup> Degree is 10.2 years. Using the current average sentence length, an offender sentenced under the proposed changes in this legislation would serve an additional 2,427 days to 85% parole eligibility. Using the cost to incarcerate at the prison rate of \$71.10, this would be an additional incarceration cost of \$172,560 per person.

The average sentence length for Class D Reckless Homicide is 6.5 years. Using the current average sentence length, an offender sentenced under the proposed changes in this legislation would serve an additional 1,540 days to 85% parole eligibility. At the state per diem for jails of \$31.34, this would be an additional incarceration cost of \$48,264 per person.

(Note: Offenders may be serving on other charges. These calculations make the assumption that offenders would be paroled at the first opportunity for parole. This calculation does not attempt to reflect how many offenders may be eligible for reduced custody at some point during service of the sentence.)

While the length of incarceration is extended under this legislation, resulting in increased incarceration costs, the number of offenders convicted under circumstances specific to this offense is likely to be low.

A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$2.6M to \$5.2M
1 Class B Felon costs KY \$259,506 to \$519,012	100 Class B Felons cost KY \$26M to \$52M
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)

Offenders currently serving on Manslaughter 2<sup>nd</sup> Degree, as a Class C offender, 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.

Offenders convicted of the Class D felony of Reckless Homicide are housed in a county jail as a state inmate.

County jails receive \$31.34 per diem for state inmates serving their sentence in a county jail.

Offenders convicted under this legislation would be classified as violent offenders which would impact their classification and depending on their offense, level, may impact eligibility to serve their sentence in the local detention center.

This is a potential loss of income for jails. Given the specific nature of the offense included in this legislation and that the number of offenses involving the death of an emergency medical services personnel in the line of duty is likely to be to be minimal, the overall impact to local incarceration would be minimal.

**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

**2/4/2019**

Date