

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 462 Introduced BR # 1362 DOC ID #: xxxx

BILL SPONSOR(S): Rep. N. Kulkarni, T. Bojanowski AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to firearms possession by domestic abusers.

SUMMARY OF LEGISLATION: Amend KRS 527.010 to define "domestic abuse offense," "domestic violence protective order," and "physical force"; create a new section of KRS Chapter 527 to create the crimes of possession of a firearm by a convicted domestic abuser and possession of a firearm by the subject of a domestic violence protective order; create a new section of KRS Chapter 527 to require the surrender of firearms by people subject to protective orders or convicted of specified crimes; amend KRS 403.740 and 456.060 to require courts to inform the subject of a domestic violence order or an interpersonal protective order of the firearm possession prohibition.

AMENDMENT: .

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

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|--|--|
| <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) . | |
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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 462 prohibits access to firearms for domestic violence offenders.

Section 1 (KRS 527.010) defines a domestic abuse offense, a domestic violence protective order, and physical force. A domestic abuse offense is a conviction under KRS 403.763 (Violation of EPO/DVO), KRS 456.180 (Violation of an IPO), or any crime involving physical force, deadly weapon, or dangerous instrument involving a family member, unmarried couple, or within a dating relationship. A domestic violence protective order is established under KRS 403.720 and KRS 456.060.

Section 2 establishes a Class C felony for possession of a firearm by a convicted domestic abuser who wantonly possesses, purchases, manufactures, or transports a firearm and has been convicted of a domestic abuse offense in any state or federal court.

Additionally, possession of a firearm by the subject of a domestic violence protective order who wantonly possesses, purchases, manufactures, or transports a firearm and is currently subject to a domestic violence protective order as defined by this legislation is also a Class C felony.

This shall also apply to a youthful offender convicted of a domestic abuse offense, notwithstanding exceptions under KRS 527.100.

Section 3 requires that upon conviction of a domestic abuse offense or issuance of a protective order the offender is informed of the firearm prohibition. Firearms shall be surrendered to local law enforcement within twenty-four (24) hours. Documentation protocol and timelines are established for attesting to the lack of firearm ownership or the

transfer of firearms. Failure to comply constitutes contempt of court. Law enforcement is provided a right to search and seizure upon probable cause that firearms have not been surrendered. For domestic abuse offenses, forfeiture is established, as well as the right to a timely sale of the weapon. For protective orders, upon expiration, firearms shall be returned if the offender is eligible to possess by law. If the individual is not eligible, the right to sell or dispose of the firearm is established.

An individual convicted of a domestic abuse offense or subject to a domestic violence restraining order who does not comply with surrendering of a firearm shall be guilty of a Class A misdemeanor.

Section 4 (KRS 403.740) requires the party be informed of the firearm prohibition upon service of a domestic violence order.

Section 5 (KRS 456.060) requires the party be informed of the firearm prohibition upon service of an interpersonal protection order.

The Department currently has 397 offenders on supervision for Violation of EPO/DVO and three (3) offenders on supervision for Violation of IPO.

Records from AOC indicate 29,003 Interpersonal Protective, Emergency Protective, or Domestic Violence Orders through District and Family Court in FY2018. There were 2,726 convictions of Violation of Kentucky EPO/DVO in FY2018.

The Department currently has sixty-eight (68) inmates and 1,602 offenders on supervision for Assault 4th Degree convictions (*excluding those not specifically related to family or domestic violence*). (Note: offenders may be incarcerated on other charges.) AOC records for FY18 reflect 5,083 domestic violence related Assault 4th convictions. (*There are a substantial number of additional Assault 4th convictions which are not able to be identified as domestic related.*)

Also for comparison purposes, there were 1,571 convictions for Convicted Felon in Possession of a Firearm or Handgun in FY2018.

It is not possible to predict how many offenses involving physical force or a deadly weapon would be identified as a domestic abuse offense under the legislation and therefore subject to the firearms prohibition outlined in the legislation.

Class C offenders convicted under HB 462 may not be eligible for community custody based on classification. Offenders not eligible to serve their sentence at the county detention facility would be housed at a state prison facility at a cost of \$71.10 per day.

It is unknown how many offenses would be generated but there is a possibility of several convictions under this legislation. As such, the estimated impact to the Department of Corrections would likely fall in the moderate range.

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

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 C offenders under this legislation 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 legislation also includes a misdemeanor penalty. Misdemeanors are subject to the jurisdiction and cost of the county.

Due to limited capacity, any number of additional offenders does impact local jail populations.

Overall, the impact to local incarceration could range from minimal to moderate.

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$2,821 to \$11,439

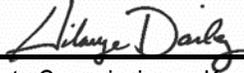
10 Class A misdemeanants: \$28,206 to \$114,391
100 Class A misdemeanants: \$282,060 to \$1,143,910

Projected Corrections Impact from Amendments:

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:  2/27/2019
Deputy Commissioner, Kentucky Department of Corrections Date