

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 76 Prefiled BR # 835 DOC ID #: BR083500.100 - 835 - XXXX

BILL SPONSOR(S): Rep. N. Kulkarni AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to firearms possession.

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 \$75.91. Community Custody Class C and most Class D felons are housed in one of 77 full service jails for up to 5 years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$36.70 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included). *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

This legislation 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 or similar offense in another jurisdiction which does not exceed a twelve (12) month sentence 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 defined as an order issued under KRS 403.740 (Domestic Violence Order) and KRS 456.060 (Interpersonal Protective Order).

Section 2 establishes a Class C felony for possession of a firearm by a convicted domestic abuser or subject of domestic violence protective order who 1) wantonly possesses, purchases, manufactures, or transports a firearm and 2) has been convicted of a domestic abuse offense in any state or federal court or is subject to a domestic violence protective order.

The legislation shall 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 an individual 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 478 offenders on supervision for Violation of EPO/DVO or Violation of IPO.

Records from CY2019 indicate 30,855 Interpersonal Protective, Emergency Protective, or Domestic Violence Orders issued through District and Family Court. There were 2,779 convictions of Violation of Kentucky EPO/DVO/IPO in FY2019.

Violation of EPO/DVO and Violation of IPO are misdemeanor offenses and are not currently restricted from access to firearms. 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.

There would be significant impact to law enforcement in the collection of firearms under Section 3.

Class C offenders convicted under this legislation would not be eligible for community custody based on the nature of the offense and therefore would be housed at a state prison facility at a cost of \$75.91 per day.

It is unknown how many offenses would be generated but there is a possibility of several convictions under this legislation. Given the establishment of a Class C felony, 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 \$1,385,413.59 to \$2,770,827.17
1 Class C Felon costs KY \$138,541.366 to \$277,082.72	100 Class C Felons cost KY \$13,854,135.86 to \$27,708,271.72

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. Since the per diem is an estimated average cost of housing an inmate, the per diem may not be the actual housing cost for the jail. *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

While any new conviction would increase the population within the county jail facilities (which are already subject to overcrowding), upon sentencing, county jails would receive a per diem while offenders are waiting for placement at a state prison facility, which would help offset the cost to the county. County jails receive \$31.34 daily for housing a state inmate.

This legislation also includes a misdemeanor penalty. Misdemeanors are subject to the jurisdiction and cost of the county.

It is unknown how many offenders would meet the criteria contained in the legislation, but the projected impact on local incarceration is likely to be minimal.

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$28,206.00 to \$114,391.00
1 Class A misdemeanant: \$2,820.60 to \$11,439.10	100 Class A misdemeanants: \$282,060.00 to \$1,143,910.00

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: Kathleen M. Keamy 1/21/2020
Commissioner, Kentucky Department of Corrections Date