

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 463 Introduced BR # 219 DOC ID #: xxxx

BILL SPONSOR(S): Rep. L. Willner, N. Kulkarni, J. Raymond, A. Scott AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to firearms.

SUMMARY OF LEGISLATION: Create new sections of KRS Chapter 237 to allow law enforcement officers to petition a court to issue extreme risk protection orders when a respondent poses a present danger of causing serious physical injury to themselves or others through purchasing, possessing, or receiving a firearm; establish procedures for the filing, review, hearing, termination, or renewal of the petition and orders; provide court processes and evidentiary standards; allow entry of the orders into law enforcement systems; prescribe issuance and service procedures for resulting protection orders; establish procedures for the surrender, storage, transfer, and return of firearms; establish penalties; create new sections of KRS Chapter 16 to direct the Kentucky State Police to establish the Kentucky Voluntary No Sell Firearms List to prohibit the possession, sale, or transfer of firearms to individuals who voluntarily request to be added the list; prescribe procedures for application for entry and removal from the list; establish penalties; amend KRS 16.220 to direct proceeds of an auctioned firearm confiscated pursuant to a protective order to go to the firearm owner; amend KRS 237.110 to exclude persons subject to protection order from eligibility for license to carry a concealed weapon; amend KRS 431.015 to allow warrantless arrest for violation of protection order; amend 431.076 to allow expungement of records of dismissed petitions.

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 \$80.24. Community Custody Class C and most Class D felons are housed in one of seventy-seven (77) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).*

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

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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. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.*

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

HB 463 creates an extreme risk protection order when the petitioner believes a respondent poses an immediate and present danger of causing serious physical injury to themselves or others through a firearm. Under a risk protective order the respondent could not purchase, possess, or have custody or control of a firearm. Following a temporary protective order, an extreme risk protection order shall be effective for one (1) year, which may be renewed. The extreme risk protection order shall be entered into the Law Information Network of Kentucky (LINK) and made available in the National Instant Criminal Background Check System (NICS).

In addition to establishing court procedures for filing and issuance, the bill provides for the surrender and subsequent return of firearms. An individual not surrendering all firearms shall be subject to search and seizure. Procedures are outlined for the storage, return, or transfer of firearms. The legislation establishes a Voluntary No Sell Firearms List. Arrest for violation of the protection order is included in KRS 431.015.

The legislation establishes the following Class A misdemeanor offenses:

- ◆ A false petition for an extreme risk protective order known to be false or with an intent to harass.
- ◆ An individual restricted from firearms under an extreme risk protection order who purchases, possesses, or has in his or her custody or control a firearm. Additionally, he or she shall be prohibited from firearms for five (5) years.
- ◆ An individual who receives a firearm transferred from the subject of an extreme risk protection order who intentionally or wantonly allows him or her access to the firearm.
- ◆ Intentional discrimination based on an individual's status on the Kentucky Voluntary No Sell Firearms List.
- ◆ A false statement with the intent of enrolling or removing someone into the Kentucky Voluntary No Sell Firearms List.

The legislation establishes the following Class B misdemeanor offenses:

- ◆ A person enrolled in the Kentucky Voluntary No Sell Firearms List who knowingly purchases, possesses, or transfers a firearm.

It is not known how many extreme risk protective orders would be issued. Further, it is not known how many individuals would possession a firearm in violation of an extreme risk protective order.

- ◆ The Department currently has 551 offenders on supervision for violation of an emergency protection or domestic violence order under KRS 403.763 or violation of an interpersonal protection order under KRS 456.180.
- ◆ There were 27,456 Interpersonal Protective, Emergency Protective, or Domestic Violence Orders issued in Kentucky in 2020. Records from AOC indicate 2,577 convictions of Violation of Kentucky EPO/DVO/IPO in FY2020.

Overall, it is unknown how many offenders would receive a conviction under this legislation. Violations may be subject to incarceration.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$3,361.94 to \$13,634.54

10 Class A misdemeanants: \$33,619.42 to \$136,345.44
100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45

Projected Corrections Impact from Amendments:

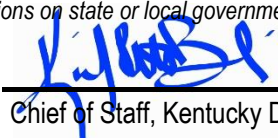
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

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, lengthens the term or incarceration, or impose new obligations on state or local governments.

APPROVED BY:



Chief of Staff, Kentucky Department of Corrections

2/24/2021

Date