

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 70 Introduced BR # 202 DOC ID #: xxxx

BILL SPONSOR(S): Rep. T. Burch AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to firearms.

**SUMMARY OF LEGISLATION:** Create new sections of KRS Chapter 237 to define terms; grant authority to District Court to issue search warrants to law enforcement officers to seize firearms from persons believed to be dangerous due to untreated mental illness or documented evidence of a propensity for violence; grant authority to law enforcement officers to seize firearms from persons believed to be dangerous without a warrant; establish protocols for court hearing to determine dangerousness of person and authority to prohibit person from possessing firearms; establish protocol for petitions to prove person is no longer dangerous; establish protocol for disposition of seized firearms after specified time; require the Administrative Office of the Courts to collect and publish statistics on gun seizures; establish penalties; amend KRS 16.220 to conform.

**AMENDMENT:** .

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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)

Section 1 of the legislation provides a definition section, including those defined as dangerous under the legislation.

Section 2 states that a District Court may issue a warrant to search for and seize a firearm from an individual who is dangerous.

Section 3 discusses seizure of firearms from individuals law enforcement deems to be dangerous. Section 4 continues with information about the court hearing. Section 5 provides that the firearm may be returned if another individual is identified as the lawful owner.

Under Section 6, after 180 days, the respondent may petition for a finding that they are no longer dangerous and can have the firearm returned if that is the Court's ruling. If the petition is denied, timeframes are provided for subsequent petitions. Under Section 7, after five (5) years, the Court can order the firearm's disposal. Section 8 allows for the transfer or sale of the firearm.

Section 9 of the legislation discusses storage of the firearms by law enforcement. Section 10 confirms this act does not authorize a warrantless search or require if a warrant would otherwise be required. Section 11 outlines reporting requirements.

Section 12 prohibits a person who has been found to be dangerous by a Court order from knowingly or intentionally renting, purchasing, receiving a transfer of, owning, or possessing a firearm. This is established as a Class A misdemeanor.

In turn, no person should knowingly or intentionally rent, sell, transfer to, or offer for sale a firearm to someone he or she knows to be a dangerous person as identified by Court order. This violation of law will be a Class D felony. Firearms transferred in violation of these offenses will be subject to forfeiture.

Section 13 adds the transfer or sale under this legislation as an exception under KRS 16.220.

The addition of a new Class D felony offense and subsequent incarceration would be an additional cost, however, it would be expected that the number of convictions generated by this legislation would not be significant. Class D offenders would be housed at a local detention center as a state inmate.

Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$136,345.44 to \$681,727.22

1 Class D Felon costs KY \$13,634.54 to \$68,172.72

100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25

**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)

As a Class D offender, offenders subject to this offense would serve their sentence in a county jail at a cost to the state of \$37.35 per day, with \$31.34 daily reimbursement to the local detention center.

The legislation also includes a new misdemeanor offense. Misdemeanors are subject to the jurisdiction and cost of the county.

Currently the Department of Corrections has two (2) offenders on supervision for the similar misdemeanor offense of KRS 237.070 Sell/Transport Firearm to Person Prohibited from Possessing. AOC records from FY20 reflect a total of four (4) convictions for this misdemeanor offense.

The number of additional offenses generated under the legislation would not be expected to be significant.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.

10 Class A misdemeanants: \$33,619.42 to \$136,345.44

1 Class A misdemeanant: \$3,361.94 to \$13,634.54

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

1/12/2021

Date