

## CORRECTIONS IMPACT STATEMENT

**SESSION: 18RS**      **BILL #: HB 61**    Prefiled      **BR #: 372**      **DOC ID#: BR037200.100 - 372 - XXXX**

**BILL SPONSOR(S):** Rep. Gerald Watkins    **AMENDMENT SPONSOR(S):**

**SUBJECT:**    AN ACT relating to criminal attempted murder.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to make criminal attempt to commit murder of a peace officer or a firefighter an offense for which at least 85 percent of the sentence must be served before probation or parole.

This  bill     amendment     committee substitute is expected to:

Have the following Corrections impact     Have no Corrections impact

- |   |   |
|---|---|
| <input type="checkbox"/> Creates new crime(s)<br><input type="checkbox"/> Increases penalty for existing crime(s)<br><input checked="" type="checkbox"/> Increases incarceration<br><input type="checkbox"/> Reduces inmate/offender services<br><input type="checkbox"/> Increases staff time or positions<br><input type="checkbox"/> Changes elements of offense for existing crime(s)<br><input checked="" type="checkbox"/> Otherwise impacts incarceration (Explain) <u>Increases incarceration length prior to parole eligibility.</u> | <input type="checkbox"/> Repeals existing crime(s)<br><input type="checkbox"/> Decreases penalty for existing crime(s)<br><input type="checkbox"/> Decreases incarceration<br><input type="checkbox"/> Increases inmate/offender services<br><input type="checkbox"/> Reduces staff time or positions |
|---|---|

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$70.12. 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 \$31.45 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       MODERATE (< \$1 million)       SIGNIFICANT (> \$1 million)

The proposed legislation would elevate criminal attempt to commit murder under KRS 506.010 to violent offender status where the victim of the offense is a peace officer or firefighter acting in the line of duty, regardless of whether an injury occurs. This would require a minimum service requirement of 85% of the sentence imposed.

In CY2017 there were twelve (12) convictions for attempted murder of a police officer, according to AOC data. The Department has no data to calculate the number of offenders who may be convicted of criminal attempt to commit murder of a firefighter.

The Department currently has six (6) offenders serving a sentence for criminal attempt to murder a police officer who are eligible for a parole hearing after serving 20% of their sentence. If HB 61 had been the law at the time of conviction, these offenders would be required to serve 85% of their sentence.

While not every offender would be paroled by the Parole Board at 20% of their sentence, as there is no way to predict when the Parole Board would parole each offender, 20% parole eligibility will be used in the following calculations. The difference in the number of days the offenders would serve if paroled at 20% of their sentence as opposed to 85% of their sentence is:

CHARGE	ATTEMPT	COUNT	AVG SENTENCE LENGTH	AVG 20% LENGTH	AVG 85% LENGTH	DAYS DIFFERENT
Murder - Police Officer	Criminal Attempt	6	5475	1095	4654	3559

Note: Not all offenders would be released to parole at 20% parole eligibility. Based on the serious nature of the offense, offenders serving on this conviction may not be paroled at the first parole opportunity.

The cost difference for the six (6) offenders currently serving on Criminal Attempt to Murder - Police Officer between serving 20% of their sentence as opposed to 85% of their sentence is calculated as follows: 3,559 days x 6 offenders x \$70.12/day = \$1,497,342.48.

The potential impact for an individual offender sentenced under this legislation could be as much as \$249,557.08 in additional incarceration costs.

With the addition of criminal attempt to commit murder of a peace officer or firefighter under this legislation, regardless of injury, the number of offenders subject to the violent offender statute will increase.

**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         MODERATE (< \$1 million)         SIGNIFICANT (> \$1 million)

The proposed changes create no new crimes. Offenders sentenced under this legislation would not be housed in county jails to serve their sentences. Although these offenders would be housed in jails pre-adjudication, it is not anticipated that the addition of criminal attempt to commit murder to the violent offender statute would increase the length of time housed in the county jail pending conviction.

**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:**                1/5/2018  
Commissioner, Kentucky Department of Corrections        Date