

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2018 REGULAR SESSION**

MEASURE

2018 BR NUMBER **0372**

HOUSE BILL NUMBER **61**

RESOLUTION NUMBER _____

AMENDMENT NUMBER _____

SUBJECT/TITLE **An ACT relating to criminal attempted murder.**

SPONSOR **Representative Watkins**

NOTE SUMMARY

FISCAL ANALYSIS: IMPACT NO IMPACT INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: STATE LOCAL FEDERAL

BUDGET UNIT(S) IMPACT: **Department of Corrections, Department of Public Advocacy**

FUND(S) IMPACT: GENERAL ROAD FEDERAL RESTRICTED AGENCY _____ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2017-2018	2018-2019	2019-2020	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES				
EXPENDITURES		Indeterminable	Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)	(Indeterminable)

() indicates a decrease/negative

MEASURE'S PURPOSE: This measure would 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 are granted.

PROVISIONS/MECHANICS: Section 1 redefines violent offender to include any person who has been convicted of or pled guilty to the commission of a Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer or firefighter acting in the line of duty, regardless of whether an injury results. In these cases a minimum service requirement of 85 percent would apply, as opposed to the current 20 percent mandate.

FISCAL EXPLANATION: The impact of this proposed legislation is indeterminable, but will be significant. The bulk of anticipated increases in expenditures related to the enactment of this legislation resides in the Department of Corrections (DOC), although the degree to which expenditures will increase is contingent upon the number of convictions that actually occur.

Other potential increases in expenditures are attributable to the Department of Public Advocacy and the potential for an increase in staff workloads.

The following analysis identifies the anticipated impacts of HB 61 at the point in the criminal justice system responsible for driving the costs because, in part, the actions of one Justice and Public Safety Cabinet agency may impose costs on another Justice and Public Safety Cabinet agency.

Department of Corrections

Using data provided by the Administrative Office of the Courts, the DOC identified a total of 12 convictions for attempted murder of a police officer in calendar year (CY) 2017, six of which are currently being housed by the DOC. To estimate the impact of this legislation, the DOC took the difference between the sentence length these six offenders will serve using the current 20 percent minimum sentence requirement, to the sentence length these same six offenders would likely serve if HB 61 were in effect at the time of their convictions. Below is a breakdown of this difference.

	Current Law	HB 61
Assumed Number of Offenders	6	6
Average Sentence Length (Days)	5,475	5,475
Minimum Service Requirement	20%	85%
Difference (Days)	1,095	4,654
Cost to Incarcerate (Per Day)	\$70.12	\$70.12
Estimated Cost of Sentence	\$460,688.40	\$1,958,030.88
Difference (Estimated Impact)	\$1,497,342.48	

While it is impossible to determine the number of new offenders that may be realized as a result of implementing HB 61, each additional offender realized as a result of the provisions of HB 61 will increase costs to the DOC by approximately \$25,600 annually.

Please note there is currently no data specific to criminal attempt to commit murder of a firefighter, but these provisions will also increase DOC expenditures pertaining to incarceration as described above.

Department of Public Advocacy

The Department of Public Advocacy (DPA) stated that this legislation poses either no direct impact to DPA, or poses a minor negative impact to the agency. Specifically, DPA personnel may experience heightened workloads under the provisions of HB 61 as more serious offenses require further investigating and additional pretrial proceedings prior to when a plea deal may be accepted.

It is also important to highlight how provisions of HB 61 may impact interactions between defense attorneys and prosecutors as it relates to plea agreements, which has the potential to increase costs to the DOC associated with incarcerating a larger offender population.

Specifically, DPA indicated there is likely to be an increase in the number of offenders who are charged with attempted murder as most of third-degree assault cases appointed to it involve an assault on a law enforcement officer that usually occurs during the arrest for a different offense. DPA believes that, if attempted murder of a police officer was re-designated as a violent offense, then many of the Department's third-degree assault cases would be indicted in the future as attempted murder cases. Please note that assault in the third degree is not currently considered a violent offense, so a convicted offender is eligible for parole after serving 20 percent of their sentence. While growth in the number of offenders charged with attempted murder will increase DPA staff workload, DOC incarceration costs associated with additional convictions will also increase.

Lastly, DPA indicated that increasing the minimum service requirement to 85 percent, as opposed to the current 20 percent, may mean that prosecutors propose a sentence length that exceeds plea agreements presently offered. The net effect is that defendants accused of applicable crimes may choose to take a plea deal whose total sentence length exceeds the sentence length offered in plea deals under current law, regardless of the defendant's innocence or guilt. While the increased costs described here relate to the actions of prosecutors and defense attorneys, additional costs will be largely realized in the DOC.

DATA SOURCE(S): Department of Corrections and Department of Public Advocacy

PREPARER: Zach Ireland NOTE NUMBER: 12 REVIEW: JAB DATE: 1/9/2018