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Opponents express outrage over gang bill in Senate

By [LISA HORNUNG](#) | March 28, 2018 1:43 pm

With just a few days left for the Kentucky legislature to pass bills, opponents have expressed outrage against a bill that would require gang members convicted of crimes in furtherance of their gang to serve longer sentences.

State Rep. Robert Benvenuti, R-Lexington, says the [House Bill 169](#) will “save lives” as it seeks to prevent gang members from recruiting young people into their gangs. Opponents, including state Rep. Attica Scott, D-Louisville, say the bill would only incarcerate people more and doesn’t look at the root causes of gang membership.



Robert
Benvenuti

The bill, now in the Senate, would make recruitment into gangs a felony, and if a person commits a crime in furtherance of the gang, he or she will have to serve 85 percent of the sentence, instead of the usual 20 percent, which is standard in Kentucky.

Benvenuti, who sponsored the bill, said that most states already have gang recruitment as a felony. “We have, unfortunately, across the state, not just in Louisville, but across the state, kids who at a very young age at 8, 9, 10 years old being recruited into gangs,” he said. “We know how that typically ends — it either ends in incarceration or death. So we want to send a clear message that if you think you’re going to recruit any individual, but particularly a youngster, into the gang life, that’s going to be a felony charge now in Kentucky.”

Scott said she and others have tried to amend the bill to make it better, but those amendments didn’t pass. “We still have a bill that’s focused on incarcerating more young people at a time when we’ve already been told by the Justice Cabinet that all of our prisons will be full by May of 2019,” she said. “We’re not looking at alternatives to incarceration, we’re not looking at the root causes of why young people are joining gangs.”



Attica
Woodson
Scott

The ACLU lobbied in Frankfort against the bill Tuesday. ACLU Advocacy Director Kate Miller, said, “The chief concern is that this is going to disproportionately impact communities of color and it’s going to calcify existing disparities that are already existent in our justice system.”



Kate Miller |
ACLU
Kentucky

“The other issue,” Miller said, “is that this casts a huge net of who can be considered a gang member, from our perspective, and it places lengthier sentences and mandatory minimums for even very low-level offenses, like criminal mischief, like vandalism, and it eliminates any opportunities for judicial discretion, so you’re going to have people facing mandatory minimums for very low-level offenses.”

Scott said the bill lacked input from the African-American community.

“I can only speak based on the bill itself and the testimony of the bill sponsor, so when the bill sponsor gets up on the House floor and says that this bill is to address some of the violence that’s existing in the African-American community, and didn’t speak to one of his colleagues who’s black in the House,” Scott said of Benvenuti. “And to see that all the testimony in support has been from white people, and all the testimony in opposition has come from black people. So, it’s pretty clear that there’s some real racial division that exists in this bill and real fear that people of color have about how this bill will be implemented.”

She also had a problem with the idea of felony charges for recruitment. “We’re not looking at the fact that if you say you want to incarcerate someone who’s 18 or 19 for recruiting someone who’s 15, for example, into a gang,” she said. “What about that person who is 18 or 19 and was recruited and has not had a chance to know life outside of a gang?”

Scott added it is the “worst way possible to address a so-called gang issue, especially when we’re not doing it based on any real data or evidence.”

Benvenuti scoffed when asked about the fear that this bill could cause police to look for gang activity when there isn’t any.

“I’ve heard all kinds of tall tales where that could happen, and quite frankly if people honestly believe that, that tells me one thing very clearly, they haven’t read the bill,” he said.

The bill, Benvenuti said, places a very heavy burden on the prosecution that any crime committed in furtherance of a gang has to be proven with a separate post-conviction trial. The prosecutor would have to prove beyond a reasonable doubt that the person was working in furtherance of the gang. He said that other states with similar laws have their gang trials before the person is convicted of the crime.

Louisville Mayor Greg Fischer wrote a letter in support of the bill, which said in part, “Currently, a child may be enticed, coerced or exploited into gang activity, and the penalty for the recruiter is a misdemeanor, while the consequences for the child are often life-altering.” Some close to the mayor say they were “blindsided” by his support, according to The [Courier Journal](#).

The Kentucky Center for Economic Policy said on its [KY Policy Blog](#): “While it is important that actions be taken to address violent crime in our state, increasing penalties for gang-related crimes is not supported by [research](#) as an effective approach. Meanwhile, HB 169 would lock up more people for long periods of time, have a [disproportionate impact](#) on poor communities of color, and cost the state over [\\$19 million](#).”

Miller pointed out that Kentucky’s jails and prisons are already overcrowded. A Kentucky Legislative Research Commission [report](#) published in 2016 and revised in 2017, said that Kentucky’s local jails housed more than 11,000 state inmates of the more than 24,000 total inmates in the Department of Corrections system as of Sept. 1, 2016. Overall, the 76 jails housing state inmates were at 120 percent of authorized capacity.

“So this is like the stupidest time to do this,” Miller said, “particularly because Kentucky does have prison inmates in local jails. We already have overcrowding in Metro Corrections, and this is just going to exacerbate the problem. And it’s not going to make us any safer, we’re just going to spend a lot more money on something that doesn’t make us any safer.”

For Benvenuti, the bill is about making the state safer. “The fact of the matter is, we’re losing a lot of young people in Kentucky to gang violence, and that needs to end,” he said. “This bill will save lives, and in fact, it’s so focused, that it will not result in a great number of incarcerations, but it will result in key people who cause a lot of damage and a lot of death and hardship in Kentucky appropriately being punished.”

LISA HORNUNG

Lisa Hornung a native of Louisville and has worked in local media for more than 15 years as a writer and editor. Before that she worked as a writer, editor and photographer for community newspapers in Kansas, Ohio and Kentucky. She has a bachelor’s degree in journalism from the University of Georgia, and after a 20-year career in journalism, she obtained a master’s degree in history from Eastern Kentucky University in 2016.



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