

Section 10 creates a new section of KRS Chapter 514 to promote restitution as a punishment for each of the crimes listed.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB 459 on local jails is indeterminable but will likely be at least a moderate increase in costs.

Under current law, various crimes identified above are Class A misdemeanors unless the value of the property, service, check, etc. is \$500 or more in which case the crimes are Class D felonies. The measure changes the trigger for a Class D felony from \$500 to \$2,000. **As a result, HB 459 will increase the number of Class A misdemeanor convictions while decreasing the number of Class D felony convictions. Since the trigger has been raised fourfold, there is a distinct possibility that there will be at least a moderate increase in the number of Class A misdemeanor convictions.**

Jails are responsible for the cost of incarcerating all individuals charged with a crime who fail to make bail. In addition, an individual convicted of a Class A misdemeanor may be incarcerated in one of Kentucky's 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.92 per day. However, an individual convicted of a Class D felony is housed in one of the full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.92 per day to house a Class D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

The Kentucky Commonwealth's Attorneys Association takes the position that due to the raising of the trigger from \$500 to \$2000, local jails will probably have an overall moderate negative fiscal impact on jails. However, the Association believes that the outcome will vary county by county. The negative impact will probably range from minimal to significant, depending on such factors as the attitudes of prosecutors and judges, the effectiveness of the restitution provision (Section 10) in the measure, and the availability of jail space. The Kentucky County Attorneys Association takes the position that passage of HB 459 will have a significant negative impact on jails due to the raising of the trigger and the difficulty in collecting restitution. There will be many more Class A misdemeanor convictions. Furthermore, a large number of misdemeanants will serve jail time due to an inability to pay restitution.

Data Source(s): Kentucky Commonwealth's Attorneys Association; Kentucky County Attorneys Association; Department of Corrections

Preparer: Scott Varland **Reviewer:** JWN **Date:** 3/7/16