

**\*AMENDED\* CORRECTIONS IMPACT STATEMENT**

**SESSION: 17RS**      **BILL #: HB 89**    Prefiled                      **BR #: 313**      **DOC ID#: BR031300.100 - 313 - XXXX**

**BILL SPONSOR(S):** Rep. Owens                      **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to crimes and punishments.

**SUMMARY OF LEGISLATION:** Amend KRS 186.990, 194A.990, 341.990, and 516.120 to raise the threshold level for a Class D felony for unlawful registration of a car to evade taxes, misrepresentation to receive public assistance or unemployment benefits, and unlawful use of slugs from \$100 to \$1,500; amend KRS 205.8461, 205.8463, 209.990, 238.995, 434.850, and 434.851 to raise the threshold level for a Class D felony for unlawful referral practices of a Medicaid provider, fraudulent Medicaid claims, wantonly or recklessly exploiting a vulnerable adult, charitable gaming fraud, unlawful diversion of charitable gaming funds, and unlawful access to computers in the second degree from \$300 to \$1,500; amend KRS 209.990 to raise the threshold level for a Class C felony for knowingly exploiting a vulnerable adult from \$300 to \$1500; amend 217.181 to raise the threshold levels for a Class C and D felony for theft of a legend drug; amend KRS 434.650, 434.655, 434.660, 434.670, 434.690, 514.030, 514.040, 514.050, 514.060, 514.070, 514.080, 514.090, 514.110, 514.120, and 517.060 to raise the threshold level for a Class D felony for various fraud and theft crimes from \$500 to \$1500; amend KRS 304.47-020 to raise the threshold level for a fraudulent insurance act from \$500 to \$1500; amend KRS 365.241 to raise the threshold level for a Class D felony for counterfeit intellectual property from \$1,000 to \$1,500.

This  bill     amendment     committee substitute is expected to:

Have the following Corrections impact     Have no Corrections impact

- |   |   |
|---|---|
| <input type="checkbox"/> Creates new crime(s)   | <input type="checkbox"/> Repeals existing crime(s)                          |
| <input type="checkbox"/> Increases penalty for existing crime(s)                      | <input checked="" type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                                      | <input checked="" 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 checked="" type="checkbox"/> Changes elements of offense for existing crime(s) |   |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain)_____               |   |

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$66.82. 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 \$31.41 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                       MINIMAL                       MODERATE                       SIGNIFICANT

Potential Savings:

The proposed legislation increases the threshold between a misdemeanor and felony charge on multiple fraud and theft offenses, including: Increases evasion of motor vehicle tax or registration fee from \$100 to \$1,500; Increases falsely receiving benefits, false statement to obtain increase of benefit, and unlawful use of slugs from \$100 to \$1,500; Raises unlawful referral by medical benefits provider, fraudulent claims to defraud medical assistant program, knowingly/willfully exploit an adult, theft of a legend drug, violations surrounding charitable gaming records or licenses, and unlawful access to computer from \$300 to \$1,500; Raises fraudulent insurance acts, fraudulent use of credit cards, credit card fraud, theft by unlawful taking, theft by deception, theft of services, theft by failure to make required disposition of property, theft by extortion, theft of labor, obscuring identity of a machine, and defrauding secured creditors from \$500 to \$1,500; Raises receiving stolen property from \$500 to \$2,000; and Increases counterfeit of intellectual property from \$1,000 to \$1,500.

The proposed legislation changes the threshold for several fraud and theft offenses, which would significantly reduce the population of felony offenders incarcerated in state prison facilities.

AOC data reflects 3,002 convictions in CY2016 for Class D felony offenses included in this legislation.

For the offenses included in this legislation, the Department currently has 5,517 Class D offenders incarcerated, with 12,548 Class D felony offenders and 1,673 misdemeanor offenders under state supervision.

It is not possible to know how many of the 5,517 currently incarcerated for Class D offenses listed in this legislation would be affected by the threshold change proposed in the legislation. Some cases will have theft amounts above the \$1,500 or \$2,000 threshold, which would not change the offense class under the proposed legislation. Others would have an amount that currently classifies the offense as a felony, but under the new statutory proposal, would reduce the offense from a Class D felony to a Class A misdemeanor. The fiscal amount of the crime is not tracked by the Department.

