## \*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 🗌 a	mendment 🔲	committee substitu	ute is expected to:	_
	ing Corrections ir	npact	no Corrections impact	
Increases incarce Reduces inmate/ Increases staff tir Changes elemen	y for existing crime eration offender services me or positions	isting crime(s)	<ul><li>☑ Decreases</li><li>☑ Decreases</li><li>☑ Increases</li></ul>	xisting crime(s) s penalty for existing crime(s) s incarceration inmate/offender services taff time or positions
in one of 76 full serv	ice jails for up to 5	years. DOC's cos	t to incarcerate a felony	ate of \$66.82. Most Class D felons are housed inmate in a jail is \$31.41 per day (includes jail . Projections are based on the daily rate x 365
Projected Impact:	NONE	MINIMAL	■ MODERATE	
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.

If HB 89 had been law at the time of their convictions, and of the 5,517 offenders incarcerated for Class D felony offenses included in this legislation, if it is assumed that 10% are incarcerated for an amount that would be affected by the threshold change, then the savings for the Department could be \$6,324,727.42 for a one year sentence. The below calculations represent estimated savings if additional offenders have offense amounts that would be affected by the threshold change:

Hypothetic	cal Number	Aı	nnual Cost to		
of Offende	rs Impacted	Incarcerate		TOTAL	
10%	552	\$	11,464.07	\$	6,324,727.42
25%	1379	\$	11,464.07	\$	15,811,818.55
50%	2759	\$	11,464.07	\$	31,623,637.10

The savings would be significantly increased if the sentence is greater than a year in length.

Individuals no longer meeting the felony theft threshold may be required to serve time in the local jail as a Class A misdemeanant.

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 MINIMAL MODERATE SIGNIFICANT
Potential Cost:
This bill would reduce the number of Class D felons housed in county jails, which would result in a cost savings for the Department, but would provide a decrease in revenue for county jails who house these inmates. There would be a significant increase in the number of individuals under county jurisdiction for misdemeanor fraud and theft charges which previously would have fallen into a felony category. Jails would not receive a per diem for these misdemeanor offenders that they would have received for the Class D felony state inmate.
AOC data reports 651 convictions in CY2016 for Class A misdemeanor offenses under statutes specified in this legislation. In addition, a portion of the 3,002 Class D felony offenders from CY2016 would become misdemeanor offenders under county jurisdiction under the proposed legislation.
For example, there were 901 convictions for Theft by Unlawful Taking \$500 or more but under \$10,000 in CY2016. If 10% of these offenses involved theft of an amount under the proposed \$1,500 threshold, and assuming they are incarcerated for a twelve month sentence, the cost to the county could be \$1,029,519 for 90 offenders.
It is not possible to determine how many of the current felony offenders would be misdemeanants under the proposed thresholds however, there is potential for the impact on the counties to be significant.
A Class A misdemeanor is 90 days to 1 year in jail 10 Class A misdemeanants: \$28,270 to \$114,640
1 Class A misdemeanant: \$2,827 to \$11,464 100 Class A misdemeanants: \$282,700 to \$1,146,400
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.
APPROVED BY:  Commissioner, Kentucky Department of Corrections  Date