

Section 5 would amend KRS 532.090 to establish a sentence of imprisonment for a gross misdemeanor as an indeterminate sentence from a minimum of 30 days and a maximum of 24 months.

HB 83 would amend various other statutes so that a gross misdemeanor would be similar to a Class D felony. For instance, regarding eligibility for probation, work release, home incarceration, parole procedures, pre-trial diversion programs, and substance abuse treatment opportunities, a person convicted of a gross misdemeanor would be treated virtually the same as one convicted of a Class D felony. Persons convicted of a gross misdemeanor would be state prisoners, incarcerated in a local or full-service jail and the Kentucky Department of Corrections would pay a per diem to the local jail for their care.

Sections 13 through 35 of the bill would amend numerous criminal statutes to reduce specific Class D felonies to gross misdemeanors. For example, **Section 13** of the bill would amend KRS 194A.990 to reduce from a Class D felony to a gross misdemeanor a charge of knowingly lying or failing to disclose a material fact to receive public assistance benefits; **Section 14** would amend KRS 218A.1415 to designate possession of a controlled substance in the first degree a Class E, rather than the current designation of Class D, felony [there is currently no Class E felony classification and it is anticipated an amendment will be adopted to change the classification to gross misdemeanor], and eliminate the maximum term of incarceration. The provisions for deferred prosecution and presumptive probation for a first or second conviction for possession would remain. In addition to re-classifying numerous felonies as gross misdemeanors, **Sections 15 through 34** would adjust the dollar amounts constituting an element of the classification charged to reflect that a gross misdemeanor is something more serious than a Class A misdemeanor and less serious than a Class D felony. For example, KRS 434.650(1)(d) classifies fraudulent use of a credit card to obtain goods or services valued at more than \$500, but less than \$10,000, a Class D felony. **HB 83 Section 15** would amend KRS 434.650(1)(d) to classify such fraudulent use a gross misdemeanor if the value of goods or services received was between \$500 - \$4,999.99. A Class D felony would not be charged unless the value of goods or services fraudulently obtained was between \$5000 - \$9,999.99.

HB 83 states that Gross Misdemeanant offenders be classified as state inmates and housed in local jails. The impact of that and proposed changes throughout the bill are explained below and the Gross Misdemeanant category would be classified as a Class D felony category with an imprisonment term of 12 to 24 months and an increased chance at parole.

Class B and Class A misdemeanors:

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

Class D and Class C felons:

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a 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.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II pertains to the bill as introduced and there are no prior introduced versions of the bill.

Data Source(s): Kentucky Department of Corrections

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