

| KRS | Description | Penalty |
|------------|--|---------------------|
| 508.010 | Assault 1 | Class B Felony |
| 508.020 | Assault 2 | Class C Felony |
| 508.250 | Assault 3 | Class D Felony* |
| 508.030 | Assault 4 | Class A Misdemeanor |
| 508.050 | Menacing | Class B Misdemeanor |
| 508.060 | Wanton Enforcement 1 | Class D felony |
| 508.100 | Criminal Abuse 1 | Class C Felony |
| 508.110 | Criminal Abuse 2 | Class D Felony |
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| 509.020 | Unlawful Imprisonment | Class D Felony |
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| 510.040 | Rape 1 | Class B Felony** |
| 510.050 | Rape 2 | Class C Felony |
| 510.060 | Rape 3 | Class D Felony |
| 510.070 | Sodomy 1 | Class B Felony*** |
| 510.080 | Sodomy 2 | Class C Felony |
| 510.090 | Sodomy 3 | Class D Felony |
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| 512.020 | Criminal Mischief 1 | Class D Felony |
| 512.050 | Criminal Use of Noxious Substance | Class B Misdemeanor |
| 512.060 | Criminal Possession of Noxious Substance | Class B Misdemeanor |
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| 513.020 | Arson 1 | Class A Felony |
| 513.030 | Arson 2 | Class B Felony |
| 513.040 | Arson 3 | Class d Felony |
| | | |
| 525.020 | Riot 1 | Class D Felony |
| 525.050 | Unlawful Assembly | Class B Misdemeanor |
| 525.060 | Disorderly Conduct 1 | Class B Misdemeanor |
| 525.070 | Harassment 2 | Class B Misdemeanor |
| 525.080 | Harassing Communication | Class D Misdemeanor |

*Class B Misdemeanor if bodily fluids are used by an adult who knowingly has a communicable disease.

*Class A Misdemeanor if the bodily fluids are likely to cause transmission of the disease or condition.

**Class A Felony is the victim is under 12 or results in physical injury.

***Class A Felony is the victim is under 12 or results in physical injury.

SB 190 provides that a hate crime will be a separate offense, and shall be punished in addition to violations of other statutes during the same course of conduct.

SB 190 provides that a hate crime be punishable at the same level as the offense enumerated above which is part of the commission of the hate crime.

SB 190 requires that a person convicted of a hate crime shall not be released until 85% of the sentence imposed is served. SB 190 also provides that a hate crime conviction may be used by the Parole Board in delaying or denying parole to a defendant.

The fiscal impact of SB 190 on local governments is indeterminable.

Hate crimes come into play at the point of sentencing. They are not separate Uniform Crime Reporting Codes differentiating hate crimes from any other offenses. An original case record would contain information about whether any given conviction's sentence is enhanced due to being a hate crime, but unfortunately, this data is not entered into the Administrative Offices of the Court case management system except perhaps as a memo, and therefore we cannot capture it to report statistics.

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.

When a court denies bail to a Class C 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. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C 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 SB 190 as introduced. There are no prior versions of the bill.

Data Source(s): Administrative Offices of the Courts, Department of Corrections, LRC Staff

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 2/18/19