

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 11 HCS 1 BR # 94 DOC ID #: SB001130.100 - 94 - 79963 - 7505

BILL SPONSOR(S): Sen. J. Schickel, C. Embry Jr., R. Girdler AMENDMENT SPONSOR(S): Sen. J. Schickel

TITLE: AN ACT relating to criminal damage to rental property.

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 512 to specify that a tenant who, having no right to do so or any reasonable ground to believe that he or she has such right, intentionally or wantonly defaces, destroys, or damages residential rental property is to be charged with violating KRS 512.020, 512.030, or 512.040 as appropriate.

AMENDMENT: Delete language requiring that violators be charged and substitute with language making the charging of violators permissive.

AMENDMENT: Delete original provisions; amend KRS 512.010 to create definitions of "lease or rental agreement", "residential rental property", and "tenant"; amend KRS 512.020, 512.030, and 512.040 to specifically include damage to residential rental property in the crime of criminal mischief.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|--|--|
| <input checked="" type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input 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 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 \$75.91. Community Custody Class C and most Class D felons are housed in one of 77 full service jails for up to 5 years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$36.70 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included). *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

This legislation establishes a penalty for tenants who intentionally or wantonly deface, destroy, or damage residential rental properties. Violators would be charged with Criminal Mischief 1st Degree if the amount is \$1,000 or more; Criminal Mischief 2nd Degree if the amount is \$500 or more; or Criminal Mischief 3rd Degree.

Criminal Mischief 1st Degree is a Class D felony, subject to service of a sentence at a Class D detention facility at a cost to the state of \$36.70 per day. Criminal Mischief 2nd Degree is a Class A misdemeanor and Criminal Mischief 3rd Degree is a Class B misdemeanor.

Currently the Department has 2,692 offenders incarcerated or on supervision for convictions of felony offense of Criminal Mischief 1st Degree, 234 offenders on supervision for misdemeanor Criminal Mischief 2nd Degree, and 324 offenders on supervision for misdemeanor Criminal Mischief 3rd Degree.

AOC records for FY2019 reflect the following convictions: 795 for Criminal Mischief 1st Degree, 343 for Criminal Mischief 2nd Degree, and 1,546 for Criminal Mischief 3rd Degree.

It is not known how many of these offenses would involve property damage to a rental property.

Overall, the proposed legislation is not expected to generate a significant number of additional offenders.

A Class D Felony sentence is 1 to 5 years.

1 Class D Felon costs KY \$13,396.97 to \$66,984.87

10 Class D Felons cost KY \$133,969.74 to \$669,848.70

100 Class D Felons cost KY \$1,339,697.40 to \$6,698,487.00

LOCAL IMPACT: Local governments are responsible for the cost of incarcerating individuals charged with Class A or B 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. Since the per diem is an estimated average cost of housing an inmate, the per diem may not be the actual housing cost for the jail. *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

Misdemeanors are subject to the jurisdiction and cost of the county. Class D offenders would serve their sentence in a county jail at the reimbursement rate of \$31.34 paid to the county jail.

In times of current overcrowding, any additional incarceration has an impact on the occupancy of jail beds.

The impact to incarceration based on this legislation would be expected to be minimal.

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$28,206.00 to \$114,391.00
1 Class A misdemeanant: \$2,820.60 to \$11,439.10	100 Class A misdemeanants: \$282,060.00 to \$1,143,910.00

A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$28,206.00
1 Class B misdemeanant: up to \$2,820.60	100 Class B misdemeanants: up to \$282,060.00

Projected Corrections Impact from Amendments:

The Senate Committee Amendment modifies language from “shall” be charged to “may” be charged with Criminal Mischief. Under permissive language, there may be fewer charges stemming from criminal damage to rental property.

Overall, under the Senate Committee Amendment, the estimated impact on corrections continues to be minimal.


The House Committee Substitute adds the definition of lease or rental agreement, residential rental property, and tenant to KRS 512.010. Under KRS 512.020, the intentional or wanton defacing, destruction, or damage to residential rental properties by a tenant in an amount over \$1000 is added to Criminal Mischief 1st Degree. Similar language with damage in the amounts of \$500 to \$1000 is added to KRS 512.030 Criminal Mischief 2nd Degree, and similar language without an amount is added under KRS 512.040 Criminal Mischief 3rd Degree.

There is no additional impact to state or local corrections under the House Committee Substitute.

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. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY:  **3/19/2020**
Commissioner, Kentucky Department of Corrections Date