

A tenant is guilty of criminal mischief in the **third degree** (KRS 512.040) when he or she as a tenant, and having no right to do so or any reasonable grounds to believe that he or she has such right, intentionally or wantonly defaces, destroys or damages residential rental property. Criminal mischief in the third degree is a Class B misdemeanor.

Discussion with a large nonprofit housing provider that currently manages over 1,300 units, stated that over the past five years, there have been no instance of a tenant willfully damaging any of their units. Most damage they see are in vacant single-family units that are vandalized. This nonprofit has a mix of single-family and multifamily units. In the event a tenant intentionally caused damage, law enforcement would be contacted.

A large urban housing authority that owns and manages several thousand units indicated they have very few units, if any, that have ever been intentionally damaged. They have not previously reported damage to law enforcement and is not inclined to do so in the future.

A large for profit management company stated they have over 11,000 units in their portfolio. They have approximately 4,000 rental unit turnovers in the course of a year. Of these, they reported that approximately twenty units had damage that exceeded \$1,000 and they did not think that any of these were intentionally damaged. In the event it was determined damage was intentional, law enforcement would be contacted.

Overall, the expected fiscal impact to local jails is indeterminable, but any impact is expected to be minimal.

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 77 full service jails or three 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 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 77 full service jails or three 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

The LM Statement to SB 11 HCS 1 is unchanged from the LM statement to SB 11 GA.

HCS 1 deletes the original provisions SB 11 that creates a new Chapter of KRS 512 and instead, amends KRS 512.010-512.040 creating definitions and to specifically include damage to residential rental property, in the crime of criminal mischief.

The LM statement to SB 11 GA is the same as the LM statement to SB 11 as introduced. The Senate adopted the Senate Committee Amendment and did not adopt any additional amendments.

SB 11 SCA made only one technical change to the bill as introduced. It deleted language **requiring** that violators be charged and substituted with language allowing the charge to be permissive. The word “shall” was replaced by the word “may” in Section 1 (2).

Data Source(s): LRC Staff

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