

The new section of KRS Chapter 532 also provides for enhanced terms of imprisonment if an individual is convicted of the following crimes:

- Criminal mischief in the first, second, and third degree (KRS 512.020, 512.030, 512.040);
- Arson in the first, second, and third degree (KRS 513.020, 513.030, 513.040); and

The defendant intentionally defaced, destroyed, damaged, or started a fire or explosion on property associated with a person because of that person’s actual or perceived race, color, ethnicity, national origin, religion, mental or physical disability, gender identity or expression, or sexual orientation.

When the defendant is convicted of a crime detailed above and is charged with intentionally committing the underlying offense because of the reasons outlined above, the court shall conduct a separate hearing to determine if the person intentionally committed the underlying offense because of race, color, ethnicity, nationality, religion, disability, gender identity or expression, or sexual orientation. The hearing shall be conducted by the same court. The court has the discretion to seat the same jury or to impanel a new jury.

If found guilty of intentionally committing the underlying crimes because of that person’s actual or perceived race, color, ethnicity, national origin, religion, mental or physical disability, gender identity or expression, or sexual orientation, the following enhanced penalties are available:

Underlying Offense	Increase in Term of Imprisonment	Increase in Fine
Class A Misdemeanor	Increase by at least half of the maximum sentence for that misdemeanor	Increased by at least half of the maximum fine amount for that misdemeanor
Class B Misdemeanor	Increase by at least half of the maximum sentence for that misdemeanor	Increased by at least half of the maximum fine amount for that misdemeanor
Class D Felony	Increased by one to five years	n/a
Class C Felony	Increased by five to ten years	n/a
Class B Felony	Increased by ten to twenty years	n/a
Class A felony	Increased by ten to twenty years	n/a

Any defendant who receives an enhanced term of imprisonment shall not be eligible for probation, shock probation, conditional discharge, parole, or any other form of early release.

SB 151 requires The Kentucky Law Enforcement Council to mandate a law enforcement basic training course that includes the identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation related to race, color,

ethnicity, national origin, religion, mental or physical disability, gender identity or expression, or sexual orientation.

SB 151 amends KRS 17.1523 to require Uniform Offense Reports as completed by all law enforcement officers to include whether or not the crime was related to ethnicity, mental or physical disability, gender identity or expression, or sexual orientation. Currently, only race, color, religion, and sex are required to be reported.

The fiscal impact of SB 151 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 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 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 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.

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 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. 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.

Class A and B felons are not lodged in local jails.

There may be cost to local governments related to ensuring officers have the required training inclusive of ethnicity, religion, mental or physical disability, gender identity or expression, or sexual orientation. This might include travel and lodging expense to attend the classes as well as personnel expense to temporarily back-fill any critical positions while officers are attending class. Whereas, we might assume this training would be available to officers already on staff, this would not necessarily entail the hiring of additional officers by local agencies. This is an expansion of training currently in place.

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

The Part II section above pertains to the bill as introduced.

Data Source(s): LRC Staff; Kentucky Department of Correction

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