

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 246 Introduced BR # 419 DOC ID #: xxxx

BILL SPONSOR(S): Rep. L. Willner, A. Scott, G. Brown Jr, N. Kulkarni, S. Westrom AMENDMENT
SPONSOR(S): . .

TITLE: AN ACT relating to the assemblage of persons.

SUMMARY OF LEGISLATION: Amend KRS 525.010 to remove the definition of riot; amend KRS 525.020 to change the type of conduct that constitutes riot in the first degree; amend KRS 525.030 to change the type of conduct that constitutes riot in the second degree; amend KRS 525.040 to change the type of conduct that constitutes inciting to riot; amend KRS 525.050 to change the type of conduct that constitutes unlawful assembly; amend KRS 525.200 to conform.

AMENDMENT: .

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|---|--|
| <input 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 checked="" type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) . | |
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STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$80.24. Community Custody Class C and most Class D felons are housed in one of seventy-seven (77) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).*

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

The definition of riot is removed from KRS 525.010. KRS 525.020 Riot 1st Degree is amended to specify that the offense of riot is five (5) or more people engaging in violent and unlawful conduct causing a public disturbance that creates a substantial imminent risk of damage to property or physical injury. Language related to obstruction of law enforcement or other government function is removed.

KRS 525.030 Riot 2nd Degree is amended in the same manner. KRS 525.040 Inciting to Riot is amended to inciting or urging five (5) or more individuals to engage in conduct outlined as a riot.

KRS 525.050 Unlawful Assembly adds in similar language about engaging in a riot or being present at an assembly that has/develops such a purpose and remaining there to advance that purpose. KRS 525.200 is amended to conform.

Riot 1st Degree is a Class D felony. Riot 2nd Degree is a Class A misdemeanor. Inciting to Riot is a Class A misdemeanor. Unlawful assembly is a Class B misdemeanor.

For FY18-20, AOC records reported thirteen (13) convictions for Riot 1st Degree, two (2) convictions for Riot 2nd Degree, and eight (8) convictions for Inciting a Riot.

The Department of Corrections has twelve (12) inmates incarcerated and eight (8) offenders on supervision for Riot 1st Degree. The Department does not have any offenders incarcerated or on supervision for Riot 2nd Degree or Inciting a Riot.

This legislation is not expected to have a substantial impact on incarceration.

Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$136,345.44 to \$681,727.22

1 Class D Felon costs KY \$13,634.54 to \$68,172.72

100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25

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. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.*

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

As a Class D offender, offenders subject to Riot 1st Degree would serve their sentence in a county jail at an average cost to incarcerate of \$37.35 per day, with \$31.34 daily reimbursement to the local detention center.

Riot 2nd Degree and Inciting to Riot are misdemeanors. Misdemeanors are subject to the jurisdiction and cost of the county.

Incarceration is expected to be minimal for these offenses. There is no expected increase to incarceration stemming from HB 246.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$3,361.94 to \$13,634.54

10 Class A misdemeanants: \$33,619.42 to \$136,345.44
100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45

Projected Corrections Impact from Amendments:

**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

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, lengthens the term or incarceration, or impose new obligations on state or local governments.

APPROVED BY:  **2/3/2021**
Chief of Staff, Kentucky Department of Corrections Date