

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 564 Introduced BR # 374 DOC ID #: xxxx

BILL SPONSOR(S): Rep. S. Sheldon AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to crimes and punishments.

**SUMMARY OF LEGISLATION:** Amend KRS 508.025, relating to assault in the third degree, to create a mandatory fine of \$5,000 and a minimum sentence of 30 days' incarceration, which is not subject to any form of early release; amend KRS 508.010, relating to assault in the first degree, to create a mandatory fine of \$15,000 and a minimum sentence of 90 days' incarceration, which is not subject to any form of early release; create a new section of KRS Chapter 512 to require the court to order full restitution in any conviction under KRS 512.020, 512.030, or 512.040; amend KRS 525.020, relating to riot in the first degree, to create a minimum sentence of 45 days' incarceration, which is not subject to any form of early release; amend KRS 525.030, relating to riot in the second degree, to create a minimum sentence of 30 days' incarceration, which is not subject to any form of early release; create a new section of KRS Chapter 525 to require the court to order full restitution in any conviction under KRS 525.020, 525.030, or 525.040; amend KRS 525.150 to make disrupting meetings and processions a Class A misdemeanor in all cases; amend KRS 525.140 to make obstructing a highway a Class D felony when the obstruction blocks an emergency vehicle, emergency responder, or emergency exit; amend KRS 511.060 to make criminal trespass a Class D felony when done to harass a person who is a law enforcement officer, active duty member of the military, judge, or elected or appointed government official; create a new section of KRS Chapter 431 to require 12-hour hold for any person charged with certain offenses and allow exceptions; repeal KRS 525.145, relating to disrupting meetings and processions in the first degree.

**AMENDMENT:** .

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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 checked="" type="checkbox"/> Increases penalty for existing crime(s)           | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input checked="" 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)

Under the legislation KRS 508.025 Assault 3<sup>rd</sup> Degree is amended to provide a \$5,000 fine for assaults committed against peace officers with bodily fluid. This offense is a Class B misdemeanor unless the bodily fluid is from an individual who knows that he or she has a serious communicable disease with likely transmission demonstrated through bodily fluids, in which case it is a Class A misdemeanor.

- » The Department of Corrections has ten (10) offenders on supervision or incarcerated for the offense of Assault 3<sup>rd</sup> Bodily Fluid.
- » AOC records reflect seventy-nine (79) convictions for FY20 for Assault 3<sup>rd</sup> Degree Bodily Fluids.

Assault 3<sup>rd</sup> against a peace officer with bodily fluid in addition to Assault 3<sup>rd</sup> Degree against a peace officer, emergency medical services personnel, fire department, rescue squad or emergency management personnel in the performance of duties would require imprisonment for at least thirty (30) days and is not eligible for community supervision or early release. Assault 3<sup>rd</sup> Degree is a Class D felony, with incarceration as a state inmate in a county detention center.

- » The Department has over 400 inmates and close to 800 offenders on supervision for Assault 3<sup>rd</sup> Degree on police officers or first responders.
- » AOC records reflect 1,418 convictions for FY20 for Assault 3<sup>rd</sup> Degree for peace officers and first responders.

- » The average length of time served for Assault 3<sup>rd</sup> Degree is 2.9 years (1,044 days). If individuals had to serve the full length of their sentence, it would be an additional 1.2 years (444 days), for an average sentence length of 4.1 years (1,488 days). Using the cost to incarcerate, this would be an additional incarceration cost of \$16,583.40 for each individual.

Under KRS 508.010 Assault 1<sup>st</sup> Degree, the Class B felony is amended by adding a \$15,000 fine. Assault 1<sup>st</sup> Degree would be subject to imprisonment for at least ninety (90) days and is without eligibility for community supervision or early release.

Class B offenders will serve the period of incarceration in a state prison at an average cost to incarcerate of \$80.24 per day.

- » The Department of Corrections currently has 607 inmates incarcerated on Assault 1<sup>st</sup> Degree. Additionally there are 193 offenders on community supervision for Assault 1<sup>st</sup> Degree.
- » AOC records reflect 101 convictions for Assault 1<sup>st</sup> Degree in FY20.
- » The average length of time served for Assault 1<sup>st</sup> Degree is 10.9 years (3,964 days). If individuals had to serve the full length of their sentence, it would be an additional 5 years (1,816 days), for an average sentence length of 15.84 years (5,780 days). Using the cost to incarcerate, this would be an additional incarceration cost of \$145,715.84 for each individual.

Also included in the legislation, KRS 512.020 – 512.040 Criminal Mischief 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Degree would be subject to restitution for damages.

- » The Department of Corrections currently has over 3200 offenders incarcerated or on supervision for convictions for Criminal Mischief.
- » AOC records reflect over 3000 convictions for Criminal Mischief in FY20.

KRS 525.020 Riot 1<sup>st</sup> Degree, a Class D felony, would be subject to imprisonment for at least forty-five (45) days and is not eligible for community supervision or early release. KRS 525.030 Riot 2<sup>nd</sup> Degree, a Class A misdemeanor, would be subject to imprisonment for at least thirty (30) days and is not eligible for community supervision or early release. For both, restitution for damages shall be included.

- » The Department of Corrections has twelve (12) inmates incarcerated and eight (8) offenders on supervision for Riot 1<sup>st</sup> Degree. The Department does not have any offenders incarcerated or on supervision for Riot 2<sup>nd</sup> Degree.
- » For FY18-20, AOC records reported thirteen (13) convictions for Riot 1<sup>st</sup> Degree and two (2) convictions for Riot 2<sup>nd</sup> Degree.

Under KRS 525.150 Disrupting of Meetings/Processions, the 2<sup>nd</sup> degree designation is removed and it is moved from a Class B to a Class A misdemeanor. KRS 525.145 Disrupting of Meetings/Processions 1<sup>st</sup> Degree is repealed.

- » The Department of Corrections has zero (0) inmates or community supervision offenders for these offenses.
- » AOC records did not return any convictions for these offenses in FY20.

KRS 525.140 Obstructing a Highway or Other Public Passage is moved from a Class B misdemeanor to a Class A misdemeanor and adds a Class D felony provision for emergency vehicles and exits.

- » The Department of Corrections has zero (0) inmates or community supervision offenders for this offense.
- » AOC records reflect sixteen (16) convictions for this offense in FY20. It is not possible to know if any of these occurrences involved emergency vehicles or exits.

KRS 511.060 Criminal Trespass 1<sup>st</sup> Degree under current statute is a Class A misdemeanor, but is provided a felony provision under the legislation if the dwelling is law enforcement officer, military member, or public official and the action is taken with the intent to harass.

- » The Department of Corrections has 183 offenders for Criminal Trespass 1<sup>st</sup> Degree.
- » AOC records reflect over 900 convictions for Criminal Trespass 1<sup>st</sup> Degree in FY20. There is no way to know how many of these offenses could have involved law enforcement or public officials.

Overall, this legislation would have a significant fiscal impact for the Department of Corrections. The additional incarceration requirements and prohibitions against community supervision or early release would increase incarceration terms for these offenses. While some of the offenses included in the legislation would be few in number, those with Assault convictions should be noted. Additional offenders receiving a sentence of incarceration and longer sentence lengths would significantly increase incarceration costs.

**Cost to Incarcerate**

A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$2,928,774.58 to \$5,857,549.15
1 Class B Felon costs KY \$292,877.46 to \$585,754.92	100 Class B Felons cost KY \$29,287,745.77 to \$58,575,491.55
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)

Class D offenders under the legislation 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.

Under the legislation specific offenses will require a period of jail time and will not be eligible for community supervision or early release. This will impact the number of offenders incarcerated as well as lengthen the time spent in custody, both for misdemeanor and felony convictions.

Several misdemeanors are included in the legislation. Misdemeanors are subject to the jurisdiction and cost of the county.

Bond is prohibited for twelve (12) hours for a number of offenses included in the legislation unless a court orders release. This stipulation may impact the number of offenders released pre-adjudication or keep offenders in custody for a day who may have otherwise posted bond immediately.

These factors increase incarceration costs, though the number of convictions or arrests associated with these offenses may be minimal.

Overall, there could be an impact to local incarceration costs under the legislation.

**Cost to Incarcerate**

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$33,619.42 to \$136,345.44
1 Class A misdemeanant: \$3,361.94 to \$13,634.54	100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45
A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$33,619.42
1 Class B misdemeanant: up to \$3,361.94	100 Class B misdemeanants: up to \$336,194.25

**Projected Corrections Impact from Amendments:**

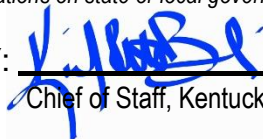
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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



Chief of Staff, Kentucky Department of Corrections

**3/15/2021**

Date