

third degree against a first responder is a Class D felony. Jails costs are described at the end of this mandate.

In FY 2020, the number of assault in the third degree convictions for communicable body fluid was 32. There were 447 convictions under this crime against EMS, FD, Rescue Squads and Peace Officers. The mandatory minimum incarceration for these offenders will impact local jails. Additionally, they may be required to hold the offender until their case is disposed of, in the event bail is denied.

Section 2 amends KRS 508.010 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 for assault in the first degree. Assault in the first degree is Class B felony. In FY 2020 there were 90 convictions for this crime.

Section 3 creates a new section of KRS Chapter 512 Criminal Damage to Property. It requires the court to order full restitution in any conviction under KRS 512.020, 512.030, or 512.040, criminal mischief in the first, second or third degree, respectively.

Section 4 amends KRS 525.020, requiring a minimum of 45 days incarceration for convictions of rioting in the first degree, a Class D felony. There were five convictions for this FY 2020.

Section 5 amends KRS 525.030, riot in the second degree, creating a minimum sentence of 30-days' incarceration, which is not subject to any form of early release. Convictions under this crime are Class A misdemeanors. For FY 2020, there were four cases resulting in four charges with one conviction.

Section 6 creates a new section of KRS Chapter 525 Riot, Disorderly Conduct, and Related Offenses. It requires the court to order full restitution in any conviction for riot in the first and second degree (KRS 525.020, 525.030), or inciting to riot (525.040).

Section 7 amends KRS 525.150 to make Disrupting Meetings and Processions a Class A misdemeanor in all cases.

Section 8 amends KRS 525.140 increasing the penalty for obstructing a highway or other public passageway to a Class A misdemeanor unless the obstruction blocks an emergency vehicle, emergency responder, or an emergency exit in which case it is a Class D felony. In FY 2020, there were 16 convictions for obstructing a highway.

Section 9 amends KRS 511.060 to make criminal trespass a Class D felony when the dwelling belongs to or is occupied by a law enforcement officer, active duty member of the military, judge, or elected or appointed government official and the person acts with the intent to harass the person who owns or occupies the residence due to their occupation. The number of convictions for criminal trespass in the first degree was 971 in FY 2020.

Section 10 creates a new section of KRS Chapter 431 to require 12-hour hold for any person charged with violations of:

- Section 4--Riot in the First Degree;
- Section 5--Riot in the Second Degree;
- Section 7--Disrupting Meetings and Processions;
- Section 8--Obstructing a Highway or Public Passageway;

Section 11 repeals KRS 525.145, relating to disrupting meetings and processions in the first degree.

The overall fiscal impact of this bill is indeterminable. Local jails will have increased costs as a result of the mandatory jail times prescribed by this legislation. Increased incarceration rates will impact local jails in a moderate to significant manner due to increased penalties (i.e. misdemeanor to a felony) and the mandatory jail time that is not subject to early release.

Jail Costs Language

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 an average cost to incarcerate of \$37.35 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$37.35 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 average cost to incarcerate of \$37.35, which includes the \$31.34 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 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

Part II, above, pertains to the bill as drafted.

Data Source(s): LRC Staff, Kentucky Department of Corrections, Administrative Office of the Courts

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