

CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 396 Introduced . BR # 349 DOC ID #: xxxx

BILL SPONSOR(S): Rep. S. Sheldon, C. Massey AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to public safety.

SUMMARY OF LEGISLATION: Amend KRS 500.080 to define "riot"; amend KRS 508.010, relating to assault in the first degree, to create a mandatory fine of \$15,000 when the offense is committed during the course of a riot; 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 508.030 to provide that knowingly shining or aiming a laser towards the head of another person results in a Class A misdemeanor; amend KRS 511.060, 511.070, and 511.080 to make criminal trespass enhance one classification level 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 512 to require the court to order full restitution in any conviction under KRS 512.020, 512.030, or 512.040; amend KRS 512.020 to create a mandatory fine of \$5,000 when a person is convicted of criminal mischief in the first degree during the course of a riot; 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 525.020, 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; 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 525.150 to make disrupting meetings and processions a Class A misdemeanor in all cases; create a new section of KRS Chapter 431 to require 12-hour hold for any person charged with certain offenses and allow exceptions; amend KRS 431.073 to exclude various Class D felonies from being expungeable; amend KRS 533.254 to require the court to order restitution in cases where a person is put on probation or given pretrial diversion; amend KRS 411.100 to require gross negligence for a cause of action for property damaged by riotous or tumultuous assemblage of people that a local government could have prevented; repeal KRS 525.145, relating to disrupting meetings and processions in the first degree; amend various sections to conform.

AMENDMENT: .

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 \$97.60. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$35.43 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)

Several offenses are amended under the legislation. While riot related convictions would be few in number, applicable elevated penalties and prohibitions against community supervision would substantially increase incarceration terms and associated incarceration costs for these offenses.

If committed during a riot,

- » KRS 508.010 Class B Assault 1st Degree – would be subject to a \$15,000 fine;
- » KRS 508.025 Class D Assault 3rd Degree – committed against a peace officer, EMS, fire, or rescue personnel, or Assault 3rd Degree -Bodily Fluid shall be subject to 30 days imprisonment and not permitted community supervision or early release;
 - ◇ Assault 3rd Degree –Bodily Fluid would be subject to a \$5,000 fine;
- » KRS 512.020 Class D Criminal Mischief 1st Degree – would be subject to a \$5,000 fine;
- » KRS 525.020 Class D Riot 1st Degree – shall be subject to 45 days imprisonment and not permitted community supervision or early release;

- » KRS 525.030 Class A misdemeanor Riot 2nd Degree – shall be subject to 30 days imprisonment and not permitted community supervision or early release; and
 - ◊ Language added to the offenses of Riot include provision of supplies knowing they could be used as weapons or dangerous instruments.

KRS 508.030 Class A misdemeanor Assault 4th Degree – adds intentional shining of a laser towards the head of another.

Under KRS 511, if a dwelling is owned by a public or local official and the person acts with intent to harass the individual due to his or her position:

- » KRS 511.060 Class A misdemeanor Criminal Trespass 1st Degree – is enhanced to a Class D felony;
- » KRS 511.070 Class B misdemeanor Criminal Trespass 2nd Degree – is enhanced to a Class A misdemeanor; and
- » KRS 511.080 Violation Criminal Trespass 3rd Degree – is enhanced to a Class B misdemeanor.

KRS 525.140 Class B misdemeanor Obstructing a Highway – is elevated to a Class A misdemeanor; and
 KRS 525.140 Class B misdemeanor Obstructing a Highway – if obstructs an emergency vehicle or exit, is enhanced to a Class D felony.

KRS 525.150 Class A misdemeanor Disrupting Meetings and Processions 1st Degree – is deleted.
 KRS 525.150 Class B misdemeanor Disrupting Meetings and Processions 2nd Degree – the degree level is removed and the offense is increased to a Class A misdemeanor.

Specified offenses from the legislation are included in the expungement statute, KRS 431.073.
 Restitution shall be ordered for the applicable offenses listed in the legislation. KRS 533.254 is modified to require restitution in pretrial diversion cases as current statute is permissible.

KRS 411.100 addresses liability for local governments for injury or damage incurred during a riot. KRS 61.912, KRS 61.914, KRS 525.010, and KRS 525.200 conforms.

It is not possible to know how many offenses under the legislation would be committed during a riot.

- » AOC records for FY18-21 reflect a total of eighteen (18) convictions for Riot 1st Degree and Riot 2nd Degree.
- » Currently the Department has fourteen (14) inmates for the offense of Riot 1st Degree, with an addition seven (7) individuals on community supervision for Riot 1st Degree and one (1) individual on supervision for misdemeanor Riot 2nd Degree.
 - ◊ The average sentence length for the individual charge of Riot 1st Degree is 4.7 years. Under the legislation, full service of the sentence would be required.
- » The Department currently has ten (10) individuals incarcerated specifically for Assault 2nd Degree - Police Officer or Public Official as well as over 400 individuals incarcerated for Assault 3rd Degree – EMS/Fire/Rescue or Police/ Probation Officer.
 - ◊ The average sentence length for all Assault 2nd Degree inmates is 8.2 years, while the average sentence length for all Assault 3rd Degree inmates is 3.8 years.
 - ◊ Currently, on average, these Assault inmates serve 60-75% of the total sentence prior to release (i.e. release to parole). Under the legislation, full service of the sentence would be required.

It should be noted that those currently incarcerated for the criminal offense of Riot involve disturbances occurring while incarcerated. Almost all involve other convictions for assault, other violent offenses, or persistent felony offender. Since occurring while incarcerated, the sentences are often consecutive.

Cost to Incarcerate

A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$3,562,391.76 to \$7,124,783.52
1 Class B Felon costs KY \$356,239.18 to \$712,478.35	100 Class B Felons cost KY \$35,623,917.60 to \$71,247,835.20
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$129,318.61 to \$646,593.03
1 Class D Felon costs KY \$12,931.86 to \$64,659.30	100 Class D Felons cost KY \$1,293,186.06 to \$6,465,930.31

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 \$35.43 cost to incarcerate for the Department of Corrections, including \$31.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail.*

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

Under the legislation, a number of offenses would not be eligible for community supervision or early release until a specific amount of time is served. Though the number of convictions are likely to be few in number, for both misdemeanor and felony convictions, this increases the number of offenders incarcerated and lengthens the time spent in custody.

Additional Class D offenses under the legislation will be subject to service of the sentence at a local detention center at an average cost to the Department of \$35.43 per day, with \$31.34 daily reimbursement to the local detention center.

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 specified offenses in the legislation, unless meeting the exception cited. Given the length of time, this stipulation may not significantly impact pre-trial release.

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

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$3,188.68 to \$12,931.86

10 Class A misdemeanants: \$31,886.78 to \$129,318.61
100 Class A misdemeanants: \$318,867.80 to \$1,293,186.06

A Class B misdemeanor is up to 90 days in jail.
1 Class B misdemeanor: up to \$3,188.68

10 Class B misdemeanants: up to \$31,886.78
100 Class B misdemeanants: up to \$318,867.80

PROJECTED IMPACT FROM AMENDMENTS:

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

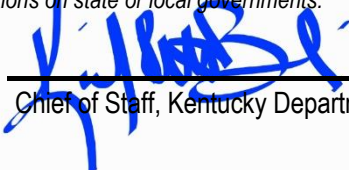
**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

2/17/2022

Date