

- 511.040 Burglary in the 3rd Degree becomes a Class C felony from a Class D felony.
- 511.060 Criminal Trespass in the First Degree becomes a Class D felony from a Class A misdemeanor.
- 511.070 Criminal Trespass in the Second Degree becomes a Class A misdemeanor from a Class B misdemeanor.
- 511.080 Criminal Trespass in the Third Degree becomes a Class B misdemeanor from a violation.
- 512.020 Criminal Mischief in the First Degree becomes a Class C felony from a Class D felony.
- 512.030 Criminal Mischief in the Second Degree becomes a Class D felony from a Class A misdemeanor.
- 512.040 Criminal Mischief in the Third Degree becomes a Class A misdemeanor from a Class B misdemeanor.
- 515.020 Robbery in the First Degree becomes a Class A felony from a Class B felony.
- 515.030 Robbery in the Second Degree becomes a Class B felony from a Class C felony.

The following KRS sections are amended to provide that **all** classification of crimes defined therein shall be charged one level higher if the offense occurred during a declared emergency arising from a natural or manmade disaster and within the area covered by the emergency declaration.

- 514.030 Theft by Unlawful Taking or Disposition
- 514.040 Theft by Deception
- 514.110, Receiving Stolen Property

This fiscal impact of this legislation is indeterminable. It is not possible to predict the number of crimes within the declaration boundaries that may be committed under this legislation since it is impossible to predict natural disasters, civil unrest, or other reasons that may necessitate an emergency declaration.

Local jails may have increased costs as a result of an increase in the number of offenders that remain incarcerated because they are either not granted bail or cannot make bail. Local jails are required to house these offenders until their case has been disposed of. They must also house persons convicted of Class A or Class B misdemeanors.

Similarly, the enhancement of felonies will likely increase incarceration time in the local jails. Local jails house defendants until such time as they make bail or until their case has been adjudicated. The state is responsible for housing Class A and Class B felons.

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 74 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 \$35.43 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 \$35.43 per day.

Class D and Class C felons:

When a court denies bail to a Class D or Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 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 \$35.43, 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. 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 a jail \$31.34 per day to house a Class D and Class C felon. The per diem may be less than, equal to, or greater than the actual housing cost.

Class A, B, & C felonies

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, and central office administrative costs (substance abuse treatment not included).

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

Part II, above, pertains to the bill as amended by SCS 1. The fiscal impact of SCS 1 is the same as the impact to the original bill.

SCS 1 adds robbery in the second degree (KRS 515.030) to the list of crimes that receive an enhanced penalty if the offense occurred during a declared emergency arising from a natural or man-made disaster and within the area covered by the emergency declaration.

Data Source(s): Kentucky Department of Corrections, LRC Staff

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