

SB 85 requires that the previous felony or felonies must be within the same chapter of KRS as the new felony conviction for the offender to be considered a persistent felony offender in the first degree.

The fiscal impact of SB 85 is indeterminable. It is expected that this measure will reduce the number of felons who will be considered a persistent felony offender and have the enhanced penalty applied to their sentence. This should reduce the length of jail time for some multi-felony offenders.

A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A persistent felony offender in the second degree shall not be eligible for probation, shock probation or conditional discharge unless all of the offenses are Class D felonies and do not involve a violent act against a person.

A persistent felony offender in the first degree that stands presently convicted of a Class C or Class D felony shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than 10 years nor more than 20 years. If all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person or a sex crime defined in KRS 17.500, the offender may be granted probation, shock probation, or a conditional discharge.

Class D and Class C 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 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 \$44.97, which includes the \$35.34 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 \$35.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

When a court denies bail to a 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 \$44.97, which includes the \$35.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. 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 local jails \$35.34 per day to house these Class C felons. The per diem may be less than, equal to, or greater than the actual housing cost.

Class A and B felons are not lodged in local jails.

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

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