

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # SB 11 HCS 1 BR # 1088 DOC ID #: SB001130.100 - 1088 - 87107 - 6338v

BILL SPONSOR(S): J. Schickel, R. Girdler, R. Mills

AMENDMENT SPONSOR(S): J. Schickel

TITLE: AN ACT relating to criminal damage to rental property.

**SUMMARY OF LEGISLATION:** Amend KRS 512.010 to define "lease or rental agreement", "residential rental property", and "tenant"; amend KRS 512.020, 512.030, and 512.040 to specifically include damage to residential rental property in the crime of criminal mischief.

**AMENDMENT:** Retain original provisions, amend KRS 512.010 to modify the definition of a "lease or rental agreement" to include a dwelling unit or premises.

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

This legislation establishes a penalty for tenants who intentionally or wantonly deface, destroy, or damage residential rental properties. Violators would be charged with Criminal Mischief 1<sup>st</sup> Degree if the amount is \$1,000 or more; Criminal Mischief 2<sup>nd</sup> Degree if the amount is \$500 or more but less than \$1,000; or Criminal Mischief 3<sup>rd</sup> Degree if the amount is less than \$500.

Criminal Mischief 1<sup>st</sup> Degree is a Class D felony, subject to service of a sentence at a Class D detention facility at a cost to the state of \$37.35 per day. Criminal Mischief 2<sup>nd</sup> Degree is a Class A misdemeanor and Criminal Mischief 3<sup>rd</sup> Degree is a Class B misdemeanor.

Currently the Department has 2,652 offenders incarcerated or on supervision for convictions of felony offense of Criminal Mischief 1<sup>st</sup> Degree, 272 offenders on supervision for misdemeanor Criminal Mischief 2<sup>nd</sup> Degree, and 325 offenders on supervision for misdemeanor Criminal Mischief 3<sup>rd</sup> Degree.

AOC records for FY2020 reflect the following convictions: 645 for Criminal Mischief 1<sup>st</sup> Degree, 1,006 for Criminal Mischief 2<sup>nd</sup> Degree, and 1,395 for Criminal Mischief 3<sup>rd</sup> Degree.

It is not known how many of these offenses would involve property damage to a rental property. The overall fiscal impact is difficult to predict as it is difficult to predict how many new convictions will come from the bill. Represented here is a prediction of fiscal impact dependent on the number of resulting convictions.

Overall, the proposed legislation is not expected to generate a significant number of additional offenders.

### Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.

1 Class D Felon costs KY \$13,634.54 to \$68,172.72

10 Class D Felons cost KY \$136,345.44 to \$681,727.22

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 subject to this offense 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.

Misdemeanors are subject to the jurisdiction and cost of the county.

Housing state inmates in county jails does provide an opportunity for additional revenue for jails. However, any additional incarceration does have an impact on local jail capacity.

The impact to incarceration based on this legislation would be expected to be minimal.

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 misdemeanor: \$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 misdemeanor: up to \$3,361.94	100 Class B misdemeanants: up to \$336,194.25

**PROJECTED CORRECTIONS IMPACT FROM AMENDMENTS:**

House Committee Substitute: The modification in the House Committee Substitute does not have an impact on incarceration.

*\*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:**  **3/4/2021**  
 Commissioner, Kentucky Department of Corrections Date