

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2023 REGULAR SESSION  
CONFIDENTIAL**

**MEASURE**

2023 BR NUMBER 1104

SENATE BILL NUMBER 162 PHS2

**TITLE** AN ACT relating to public safety, making an appropriation therefor, and declaring an emergency.

**SPONSOR** Representative Jason Petrie

**FISCAL SUMMARY**

STATE FISCAL IMPACT:  YES  NO  UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY:  ACTUARIAL ANALYSIS  
 LOCAL MANDATE  CORRECTIONS IMPACT  HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: Department of Juvenile Justice; Department of Corrections; Department for Medicaid Services; Legislative Research Commission; Auditor of Public Accounts

FUND(S) IMPACTED:  GENERAL  ROAD  FEDERAL  RESTRICTED

FISCAL ESTIMATES	2022-2023	2023-2024	ANNUAL IMPACT AT FULL IMPLEMENTATION
<b>REVENUES</b>			
<b>EXPENDITURES</b>	No less than \$8,000,000	(\$38,000,000) KPPF No less than \$47,900,000 GF	No less than \$47,900,000
<b>NET EFFECT</b>	(No less than \$8,000,000)	(No less than \$9,900,000)	(No less than \$47,900,000)

( ) indicates a decrease/negative

**PURPOSE OF MEASURE:** The measure includes provisions for reorganization of the Department of Juvenile Justice (DJJ) and revises the duties and organizations of the Juvenile Justice Oversight Council. New requirements are established for the DJJ and the Justice and Public Safety Cabinet (JPSC) for the operation of the statewide juvenile detention program including those related to mental health services for youth in custody, emergency response equipment and training, data tracking systems, implementation of a regional model for juvenile detention, retaining retired youth workers and allowing those recently resigned to return at prior classifications, maintaining a management training program, and implementing a risk-based juvenile transfer plan.

Various appropriations are made to support costs related to salary increases, additional staff, facility security upgrades, data management, youth diversion programming, and design costs for a regional model of detention.

The measure also requires the Department for Medicaid Services (DMS) to submit an amendment to the Section 1115 demonstration waiver to provide Medicaid coverage for youth in pre- and post-adjudication detention facilities.

**FISCAL EXPLANATION:** The fiscal impact of SB 162 PHS2 is at least \$8 million in FY 2023 for costs related to facility security upgrades, youth diversionary programming, design costs for a regional model of detention, transportation, and a performance review to be contracted by the Auditor of Public Accounts. The fiscal impact in FY 2024 is at least \$9.9 million in General Fund for staffing and informational technology costs. An additional \$38 million in FY 2024 for salary increases is transferred from funds appropriated to the Kentucky Permanent Pension Fund in HB 1 of the 2022 Regular Session. In future years, the recurring portion of these costs will need to be supported by additional General Fund appropriations totaling at least \$47.9 million. Sections 11 through 19 specify these appropriations.

There are additional, indeterminable impacts to DJJ related to requirements established in Sections 4 and 6 of the bill. Precise estimates and dates of implementation for all requirements are indeterminable with information currently available, but are likely significant. Specifics by bill section are as follows:

Section 1 reorganizes DJJ to include an Office of Detention with associated Divisions of Transportation and Compliance. Costs associated with this reorganization are expected to be minimal.

Section 2 requires JPSC to maintain a data tracking system for DJJ. JPSC has estimated the cost of such a youth offender management system to be \$142,000 annually. These costs are addressed by the appropriation in Section 13 of the bill.

Section 3 revises the membership and duties of the Juvenile Justice Oversight Council and transfers its administration from JPSC to the Legislative Research Commission (LRC). Costs associated with these changes are expected to be minimal.

Section 4 requires DJJ to contract for institutional treatment for youth with severe emotional disturbance or mental illness and to provide youth in DJJ's custody, both pre-adjudicated and post-adjudicated, access to mental health professionals with privileged communications. The cost of establishing an institutional treatment contract is unknown currently although JPSC has indicated an institutional contract will be substantial in cost and likely difficult to execute given the acute health care needs of youth that would need institutional care. DJJ does provide formal, evidence-based mental health services to post-adjudicated youth, extending similar services to pre-adjudicated youth will impose additional unknown costs depending on the number of youths detained and choosing to access such services.

Section 4 also requires DJJ, for juvenile detention and youth development centers, to conduct monthly emergency response training, to provide and certify staff in the use of emergency response equipment, to establish emergency response teams at each facility, to enter into MOUs with local law enforcement for emergency response, and to equip each facility with an alarm linked to the local dispatch center. The cabinet is currently implementing emergency response training, the purchase of non-lethal defensive equipment for select staff, and secure threat group training at high-security facilities using existing resources and staff from JPSC and DOC. In future years, JPSC has indicated costs for continued training and equipping of select staff can be absorbed by the annual operating budget.

Section 6 requires JPSC to implement a regional model of juvenile detention that also segregates males and females and violent and nonviolent offenders. DJJ is currently assigning youths to detention facilities based on gender and severity of offense. JPSC has estimated an additional \$12.9 million in staffing costs and \$5.8 million in transportation costs in FY 2024 are needed to maintain this approach, as well as \$26.3 million in various capital construction costs in FY 2023. Transitioning to a regional model while also segregating based on gender and offense level may impose additional staffing and facilities costs. These costs are currently unknown, but JPSC has indicated costs would be substantial, particularly with regard to facilities redesign.

Section 6 requires JPSC to implement a uniform requirement for correctional officers in DJJ, implement a retired youth worker program to supplement staffing, allow those staff recently resigned to return at prior classifications, maintain a management training program, and implement a risk-based juvenile transfer plan. Any additional costs with regard to these provisions are likely limited.

Section 8 requires the Auditor of Public Accounts to contract for a performance review of preadjudication facilities and programs administered by DJJ. Sections 9 and 10 further define the authority and scope of the performance review while Section 19 appropriates General Fund in \$500,000 in FY 2023 for the review.

Section 7 requires DMS to submit an amendment to the Section 1115 demonstration waiver to provide Medicaid coverage for medical and behavioral health care for Medicaid-eligible children in pre- and post-adjudication detention facilities. DMS estimates, if approved, an annual fiscal impact of approximately \$1.8 million in total funds for providing this coverage, \$540,000 of which would be the state's General Fund share. This estimate could change based on the number of youths determined eligible. Obtaining Medicaid coverage for eligible youth may also offset current expenditures DJJ makes for medical care of youth in custody.

Section 11 transfers \$38 million in FY 2024 from funds appropriated to the Kentucky Permanent Pension Fund in HB1 of the 2022 Regular Session to DJJ and DOC to support salary increases.

Section 12 appropriates \$9.7 million in General Fund in FY 2024 to DJJ for an additional 146 staff positions.

Section 13 appropriates \$200,000 in General Fund in FY 2024 to DJJ for a youth offender management system.

Section 14 appropriates \$4 million in General Fund in FY 2023 to DJJ for facility security upgrades.

Section 15 appropriates \$1.5 million in General Fund in FY 2023 to DJJ for the establishment of a diversionary program to identify and provide treatment to youth identified as suffering from severe mental illness.

Section 16 appropriates \$1.75 million in General Fund in FY 2023 to DJJ for design costs related to the establishment of a regional model of juvenile detention.

Section 18 appropriates \$250,000 in General Fund in FY 2023 for transportation costs for female juvenile offenders and male juvenile offenders in limited circumstances to be paid on a cost-reimbursement basis to local law enforcement.

**DATA SOURCE(S): LRC Staff; Justice & Public Safety Cabinet; Cabinet for Health and Family Services; Office of State Budget Director**

**PREPARER: Perry Papka NOTE NUMBER: 144 REVIEW: JAB DATE: 3/14/2023**