

Between January 1, 2015 and December 22, 2015 there were 15,682 convictions for first offense DUI in Kentucky, 3,300 convictions for second offense DUI and 704 DUI third convictions. It is not known how many people convicted of a DUI offense would have been convicted of a higher classification DUI, and subject to more mandatory jail time, if the “look back” period for prior DUIs had been 10 years rather than 5. As an indication, though, one local county attorney’s office reports that, from November 2013 to November 2014 there were 327 convictions for DUI first offense in its jurisdiction. Of those 327 convictions 91, or 28% of the defendants had at least one conviction for a DUI occurring more than 5 years prior. Under HB 13 the earlier DUIs, if they occurred within 10 years of the subject DUI, would have been captured to enhance the consequences for the subsequent DUIs. For example, if the 91 DUI first convictions had been captured as DUI second convictions, those defendants would have spent cumulatively a mandatory minimum additional 637 days (7 days x 91 inmates) in the local jail. While it is likely that a look back period of 10 years would result in additional convictions for DUI second and third and so increase the number of mandatory days in local jails, it is indeterminable how many additional such convictions would result.

Additional convictions for second and third offenses would increase the financial burden on local governments because they are responsible for the cost of incarcerating persons who are convicted of, or who do not make bail when charged with, a misdemeanor. While the majority of misdemeanor defendants are granted bail, those who do not will cost local jails an average of \$31.34 per day. While the expense of housing inmates varies by jail, each additional inmate will increase facility costs by an estimated average of \$31.34 per day. That means the 91 additional DUI second convictions described above would have cost the local jail approximately an additional \$19,963.58 (637 days x \$31.34).

A DUI fourth conviction within 5 years is a Class D felony. Additional felony convictions resulting from an enlarged look-back period could increase the amount of reimbursement from the Kentucky Department of Corrections (DOC) to local governments. Local governments are responsible for the costs of incarcerating persons charged with a felony (if they do not make bail) until disposition of the case in one of Kentucky’s 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. Upon sentencing, a Class D felon is housed in one of Kentucky’s 78 local full service jails for the duration of their sentence. The Kentucky Department of Corrections (DOC) pays local jails \$31.34 a day to house a Class D felon. Under HB 13, to the extent the enlarged look back period resulted in more felony convictions, there would be an increase in funds paid by DOC to local jails to house them. Since the per diem pays the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Data Source(s): Administrative Office of the Courts; LRC Staff, Kentucky Association of County Attorneys

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