

Section 27 repeals KRS 431.060, which defines felonies, misdemeanors, and violations, and any references to KRS 431.060 are deleted throughout the bill.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The changes proposed in HB 412 HCS should have minimal effect on local law enforcement, but the costs to local jails are indeterminate.

HB 412 HCS treats persons convicted of a gross misdemeanor similar to persons convicted of a Class D felony. 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 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 \$31.92 per day. 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 \$31.92 per day to house a D felon. Since the per diem pays for 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, thus **the changes in Section 2(6) would have minimal impact on local governments.**

Likewise, any arrest of someone committing a gross misdemeanor, or any other misdemeanor in the presence of a peace officer, should also have minimal impact on local governments because peace officers already have the ability to arrest anyone committing a felony or misdemeanor in their presence.

However, the provisions dealing with work release and presumptive parole would have an indeterminate impact on local jails. HB 412 HCS, like HB 412, allows misdemeanants to work on work release programs. Allowing misdemeanants on work release programs would enable them to be eligible for release earlier than they are currently, possibly saving local jails money. Presumptive parole release could result in a cost savings to the state, but could end up saving or costing local jails money, contingent upon whether the reimbursement rate covers the housing costs endured by local jails. Allowing credits to defendants for time served could cost local jails. If an offender is charged with a Class D felony, the county pays for the housing of the offender until the final sentencing day. After accounting for credit served while awaiting final sentencing, the defendant could earn credit for several months prior to the guilty plea, which would not be reimbursed to the county jail, negatively impacting the budget of fiscal courts. Because work release programs may result in cost savings and accounting credit for time served may result in cost increases, the fiscal impact on local jails is indeterminable at this time.

Additionally, HB 412 HCS, like HB 412, also allows any gross misdemeanor who may benefit from a substance abuse treatment program to complete substance abuse treatment if appropriate and space is available. Eighteen full service jails provide an in-patient substance abuse program (SAP) to nearly 1000 convicted felons incarcerated in the jails. The estimated average cost of jailing a convicted felon participating in a SAP is \$40.34 per day. This amount is reimbursed by the Department of Corrections and is

approximately \$9 more than the estimated average cost of \$31.92 per day reimbursement. Since the \$40.34 per diem pays for the estimated average cost of housing a convicted felon participating in a SAP, the per diem may be less than, equal to, or greater than the actual housing cost, which would make any impact of the substance abuse provision minimal.

Data Source(s): Kentucky Jailers Association; Kentucky Sheriffs' Association; Kentucky Association of Chiefs of Police

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