Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2017 Regular Session

Part I: Measure Information

Bill Request #: 415					
Bill #: HB 352					
Bill Subject/Title: AN ACT relating to crimes and punishments.					
Sponsor: Representative Gerald Watkins					
Unit of Government:xCityxCountyxUrban-CountyxCharter CountyxConsolidated LocalxGovernment					
Office(s) Impacted: local law enforcement and jailers					
Requirement: <u>x</u> Mandatory Optional					
Effect on Powers & Duties: <u>x</u> Modifies Existing <u>x</u> Adds New Eliminates Existing					

Part II: Purpose and Mechanics

HB 352 amends KRS Chapter 218A to apply a uniform penalty of presumption probation, which would include mandatory drug treatment for persons found guilty of the possession of certain drugs and paraphenalia The bill would also make possession of a controlled substance in the first deree a class A misdemeanor (rather than Class D felony, as presently).

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

The fiscal impact of HB 352 is indeterminate and could range from minimal to moderate in particular circumstances. The cost of providing mandatory drug treatement to specific offenders could minimally increase spending for some full service correctional facilities. Also, reducing the prescription and controlled drug offenses from Class D felony to Class A misdemeanor will shift (Class D felony) incarceration costs from the state (reimbursement) to local jail facilities (for Class A misdemeanants). Below is a description of costs associated with incarceration and drug treatment.

Class B and Class A misdemeanors:

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky's 76 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. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

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 76 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 full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 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.

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 76 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. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 18 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Substance Abuse Program:

Twenty-three full service jails provide an in-patient substance abuse program (SAP) to nearly 1,100 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 \$9 more than the estimated average cost of \$31.34 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.

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

Preparer:	H. Marks	Reviewer:	KHC	Date:	2/17/17