



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

**The fiscal impact of BR 154 on local governments is expected to be minimal.** The majority of all misdemeanor defendants are granted bail, thus beyond any initial post-arrest custody, there are no incarceration expenses to the local government in regards to those defendants granted bail. Under the provisions of BR 154, defendants charged with promoting contraband may now be charged with a Class D felony instead of a Class A misdemeanor. For a Class D felony, jail time is not less than one (1) year nor more than five (5) years and under the provisions of BR 154, at least 85% of the sentence must be served. While jail time will increase, the cost of housing those convicted of the crime will shift from the local jail to the Department of Corrections. Local governments would no longer have the incarceration expense related to inmates convicted of promoting contraband in the second degree, a Class A misdemeanor. Local governments would be reimbursed for the additional expense of housing those same inmates as Class D felons.

The requirement that persons convicted under this section must serve at least 85% of their sentences will maximize reimbursement to local governments. BR 154 will increase the amount of reimbursement received for housing the additional inmates convicted of promoting contraband in the **second degree**, formerly a Class A misdemeanor and which BR 154 proposes to be a Class D felony. Likewise, this provision will also increase the amount of reimbursement local governments receive to house inmates currently convicted of promoting contraband in the **first degree** which is and will continue to be a Class D felony, but now also subject to the 85% provision of BR 154.

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. 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, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. 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.

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.

For fiscal year 2016, there were 833 contraband cases resulting in Class A misdemeanor convictions and 608 contraband cases resulting in Class D felony convictions in circuit and district courts. The attached table provides a county breakdown on the total number of contraband charges and cases prosecuted in circuit and district courts for fiscal year 2016. The Class A misdemeanors will be reclassified as Class D felonies under BR 154.

		Total 1st Degree, Circuit and District	Total 2nd Degree, Circuit and District			Total 1st Degree, Circuit and District	Total 2nd Degree, Circuit and District			Total 1st Degree, Circuit and District	Total 2nd Degree, Circuit and District
ADAIR	Charges	4	2	GRANT	Charges	1	2	MEADE	Charges	3	2
	Cases	4	2		Cases	1	2		Cases	3	2
BALLARD	Charges	4	2	GRAVES	Charges	4	14	MERCER	Charges	1	0
	Cases	4	2		Cases	4	14		Cases	1	0
BARREN	Charges	11	5	GRAYSON	Charges	1	2	MONROE	Charges	0	4
	Cases	11	5		Cases	1	2		Cases	0	4
BELL	Charges	12	3	GREENUP	Charges	14	5	MONTGOMERY	Charges	14	6
	Cases	12	3		Cases	14	4		Cases	11	6
BOONE	Charges	6	6	HARDIN	Charges	17	11	MORGAN	Charges	7	1
	Cases	6	6		Cases	17	11		Cases	3	1
BOURBON	Charges	5	6	HARLAN	Charges	11	3	MUHLENBERG	Charges	14	15
	Cases	5	6		Cases	11	3		Cases	14	15
BOYD	Charges	9	3	HART	Charges	1	0	NELSON	Charges	1	20
	Cases	7	3		Cases	1	0		Cases	1	18
BOYLE	Charges	14	6	HENDERSON	Charges	3	4	NICHOLAS	Charges	0	1
	Cases	14	6		Cases	3	4		Cases	0	1
BREATHITT	Charges	0	1	HICKMAN	Charges	4	1	OHIO	Charges	2	4
	Cases	0	1		Cases	4	1		Cases	2	3
BRECKINRIDGE	Charges	3	0	HOPKINS	Charges	5	1	OLDHAM	Charges	33	15
	Cases	2	0		Cases	5	1		Cases	29	14
BULLITT	Charges	3	7	JACKSON	Charges	1	14	OWSLEY	Charges	1	2
	Cases	3	7		Cases	1	14		Cases	1	2
BUTLER	Charges	2	2	JEFFERSON	Charges	71	7	PERRY	Charges	17	4
	Cases	2	2		Cases	71	7		Cases	16	4
CALDWELL	Charges	5	6	JESSAMINE	Charges	16	11	PIKE	Charges	14	39
	Cases	4	6		Cases	16	10		Cases	14	39
CALLOWAY	Charges	0	1	JOHNSON	Charges	7	17	POWELL	Charges	0	6
	Cases	0	1		Cases	7	17		Cases	0	5
CAMPBELL	Charges	48	8	KENTON	Charges	11	9	PULASKI	Charges	12	9
	Cases	48	7		Cases	11	9		Cases	11	9
CARROLL	Charges	15	10	KNOX	Charges	7	19	ROCKCASTLE	Charges	1	2
	Cases	15	10		Cases	7	19		Cases	1	2
CARTER	Charges	6	13	LARUE	Charges	3	1	ROWAN	Charges	4	2
	Cases	6	12		Cases	3	1		Cases	3	2
CASEY	Charges	4	0	LAUREL	Charges	4	10	RUSSELL	Charges	1	3
	Cases	4	0		Cases	4	10		Cases	1	3
CHRISTIAN	Charges	22	15	LEE	Charges	7	9	SCOTT	Charges	7	7
	Cases	21	14		Cases	7	9		Cases	7	7
CLARK	Charges	22	4	LESLIE	Charges	1	5	SHELBY	Charges	30	34
	Cases	22	4		Cases	1	5		Cases	28	33
CLAY	Charges	3	13	LETCHER	Charges	11	3	SIMPSON	Charges	7	4
	Cases	3	13		Cases	11	3		Cases	7	4
CLINTON	Charges	3	0	LINCOLN	Charges	3	2	TAYLOR	Charges	10	8
	Cases	3	0		Cases	3	2		Cases	10	8
CRITTENDEN	Charges	4	4	LOGAN	Charges	1	9	TODD	Charges	2	2
	Cases	3	3		Cases	1	9		Cases	2	2
DAVISS	Charges	20	1	LYON	Charges	20	0	UNION	Charges	0	5
	Cases	20	1		Cases	14	0		Cases	0	5
ELLIOTT	Charges	3	0	MADISON	Charges	26	13	WARREN	Charges	34	7
	Cases	3	0		Cases	26	13		Cases	34	7
ESTILL	Charges	5	4	MAGOFFIN	Charges	0	1	WAYNE	Charges	16	3
	Cases	5	4		Cases	0	1		Cases	16	3
FAYETTE	Charges	53	22	MARION	Charges	4	16	WEBSTER	Charges	4	1
	Cases	53	22		Cases	4	16		Cases	4	1
FLOYD	Charges	15	22	MARSHALL	Charges	8	0	WHITLEY	Charges	5	14
	Cases	13	20		Cases	7	0		Cases	5	13
FRANKLIN	Charges	11	7	MASON	Charges	8	20	WOODFORD	Charges	5	3
	Cases	11	7		Cases	8	19		Cases	5	3
FULTON	Charges	12	6	MCCRACKEN	Charges	27	13				
	Cases	11	6		Cases	26	13				

\*Not included in above table:

Crittenden County had 1 second degree charge / 1 case in Juvenile Court.

Jefferson County had 1 first degree charge / 1 case and 1 second degree charge / 1 case in Juvenile Court.

**Data Source(s):** Administrative Office of the Courts, LRC Staff.

**Preparer:** Wendell F. Butler      **Reviewer:** JWN      **Date:** 1/3/17