



Finally, HB 89 amends KRS 365.241 to raise (from \$1,000 to \$1,500) the threshold level for a Class D felony for counterfeit intellectual property.

All of the above amendments achieve the same goal. Each amendment raises the monetary trigger for elevating a crime from a Class A misdemeanor to a Class D felony.

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

**The fiscal impact of HB 89 is negative and indeterminable, and could range from minimal to significant.** Outcomes will vary county by county, depending on the demographics of the county, the attitude of prosecutors and judges, and perhaps other factors, such as ability to afford bail, restitution, etc.

There will be an increase in the number of misdemeanor convictions due to increases in the dollar amounts that trigger misdemeanor criminal offenses, charges and subsequent incarcerations. Correspondingly, there will be a decrease in Felony D convictions. Although jail costs for Class D felons are reimbursed to local jails by the State, misdemeanor incarceration costs are borne by local jails. Misdemeanor and felony incarceration costs are as follows:

#### **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 over 1,100 convicted felons and 166 non-state offenders 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 Department of Corrections; Kentucky Jailors Association; Kentucky Sheriffs Association; Kentucky Association of Chiefs of Police; Kentucky Commonwealth's Attorneys Association; Kentucky County Attorneys Association;

**Preparer:** H. Marks **Reviewer:** JWN **Date:** 1/3/17