

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2018 Regular Session**

Part I: Measure Information

Bill Request #: 373

Bill #: HB 62

Document ID #: 789

Bill Subject/Title: AN ACT relating to crimes and punishments.

Sponsor: Rep. Gerald Watkins

Unit of Government: City County Urban-County
 Charter County Consolidated Local Unified Local
 Government

Office(s) Impacted: Local law enforcement and jailers

Requirement: Mandatory ___ Optional

Effect on
Powers & Duties: Modifies Existing Adds New ___ Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 62 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 paraphernalia. The bill would also make possession of a controlled substance in the first degree a Class A misdemeanor (rather than Class D felony, as presently).

The fiscal impact of HB 62 on specific local governments is indeterminate and could, for local jails, range from minimal to significant in particular circumstances. This bill will transfer charges from Class D felonies to misdemeanors, effectively transferring the cost burden for housing these inmates from the state to the county. Therefore, the correctional impact on local governments and jails could be minimal in some cases, and in other cases, substantial.

The cost of providing mandatory drug treatment to specific offenders could minimally increase spending for some full service correctional facilities. However, as stated, reducing prescription and controlled drug offenses from Class D felony to Class A misdemeanors will

shift the Class D felony incarceration costs currently paid (reimbursed) by the state to the local jails, as per the incarceration and drug abuse treatment costs described below.

Class A misdemeanors:

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 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.

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.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The Part II section above pertains to the bill as introduced and there are not any prior introduced versions of the bill to complete the Part III section.

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

Preparer: H Marks **Reviewer:** KHC **Date:** 1/9/18