

SB 133 SCS defines “eligible person” and provides that an eligible pregnant woman may be released from custody. The Act prohibits an offender charged with an offense under KRS Chapter 507 (murder, manslaughter, reckless homicide) from pretrial home incarceration unless the judge finds that the offender does not pose a threat to society.

SB 133 SCS amends KRS 434.650, 434.655, 434.660, 434.670, 434.690, 514.030, 514.040, 514.050, 514.060, 514.070, 514.080, 514.090, 514.110, 514.120, and 517.060 to raise the threshold level for a Class D felony for various fraud and theft crimes from \$500 to \$1,000 if the person has not been convicted twice of the same offense in the last two years.

SB 133 SCS amends KRS 431.066 to eliminate monetary bond, except for high-risk defendants who have not been charged with a violent or sexual offense, and provides that when a court is making a bail determination for a defendant, it is based on whether a defendant poses a low, moderate, or high risk. The Act provides that when a defendant poses a low or moderate risk and has been charged with a violent or sexual offense or poses a high risk, the court shall determine whether any nonfinancial conditions shall reasonably ensure the appearance of the defendant or the safety of the public.

SB 133 SCS provides for the pretrial administrative release of defendants charged with certain violations and misdemeanors, and amends KRS 441.127 to expand credits available to misdemeanants.

The fiscal impact of SB 133 SCS is indeterminate and will range from minimal to significant. This bill would reduce the number of Class D felons housed in county jails and would provide a decrease in revenue for county jails which house these inmates. Statewide, there will be a significant increase in the number of individuals under county jurisdiction for misdemeanor fraud and theft charges which previously would have fallen into a felony category. Jails will not receive the per diem reimbursement for these misdemeanor offenders as they would for a Class D felony state inmate. Although it is not possible to determine how many current felony offenders would be misdemeanants under these proposed thresholds, the potential impact on a county could be significant.

Individual county jail costs, and outcomes relating to bail, release from custody, home incarceration, etc. will vary county by county, depending on county demographics, the attitude of prosecutors and judges, and other factors, such as ability to afford bail, restitution, etc.

The new regulations and requirements regarding female and pregnant female inmates may result in minimal to moderate cost increases in order to achieve compliance with, and provide related training related to, new standards for female inmate housing and jail certification.

Below is a description of jail costs relating to felony and misdemeanor incarcerations:

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 twelve months. Misdemeanants are housed in one of Kentucky's 76 full service jails or four 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.

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 four 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, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. 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 four 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, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 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.

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

The SCS to SB 133 makes no changes that would meaningfully alter the fiscal impact of SB 133.

The Senate Committee Substitute retains most of the provisions of SB 133 and **clarifies** that pregnant inmates shall not be restrained during labor or transport to a medical facility or birthing center, or postpartum recovery unless extraordinary circumstances exist. The SCS **clarifies** that orders of protection and interpersonal protective orders may be filed at a domestic violence shelter or a rape crisis shelter if the shelter elects to participate in the

filing. The SCS **clarifies** that an eligible pregnant woman must complete inpatient residential treatment.

The SCS **deletes** the requirement to report allegations of sexual assaults by a jailer or any employee, contractor, vendor, or volunteer of a supervising entity to the Attorney General's Office for investigation, and **deletes** the pretrial detention and no monetary bail provisions.

The SCS **allows** for the pretrial administrative release of defendants charged with certain violations and misdemeanors, and amends KRS 441.127 to **expand** credits available to misdemeanants.

Data Source(s): Kentucky Jailers Association; Kentucky Association of Counties;
Kentucky Department of Corrections

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