Local Government Mandate Statement Kentucky Legislative Research Commission 2019 Regular Session

Part I: Measure Information

Bill Request #: 834
Bill #: SB 82
Document ID #: 1617
Bill Subject/Title: AN ACT relating to marijuana possession.
Sponsor: Senator Jimmy Higdon
Unit of Government: X City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: law enforcement; jails
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

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

SB 82 would de-criminalize possession of a "personal use quantity" of marijuana by persons 18 years of age and older. Such possession would be punishable by a civil penalty of \$100 or 15 hours of community service. If the activity occurred on elementary or secondary school property, the civil penalty would be \$250 or 30 hours of community service. Section 2 would define "personal use quantity" as:

- 1. 1 oz. or less of marijuana in plant form;
- 2. 5 grams or less of resin or concentrates derived from marijuana, excluding the estimated weight of non-marijuana ingredients;
- 3. Marijuana products containing 300 grams or less of delta-9 tetrahydrocannabinol

SB 82 would also de-criminalize possession or delivery of marijuana accessories, defined in Section 2 as "drug paraphernalia for the ingestion, inhalation, or storage of a personal use quantity of marijuana," and would de-criminalize trafficking a personal use quantity of marijuana. The bill would not enhance the penalty for subsequent offenses.

SB 82 is likely to have a minimal positive fiscal impact on local governments. Under current law, possession of less than 8 oz. of marijuana, first offense, is a Class B misdemeanor, punishable by up to 45 days in jail. Trafficking less than 8 oz. of marijuana is a Class A misdemeanor, punishable by up to 1 year in jail. Possession or delivery of drug paraphernalia, first offense, is a Class A misdemeanor punishable by up to one year in a local jail.

The actual quantity of marijuana possessed by those who have been convicted of possession or trafficking under 8 oz. is unknown, therefor the number of those who had no more than 1 oz. would spend no time in jail under SB 82. In addition, the majority of first-time misdemeanor defendants are granted probation and spend little or no time in jail anyway; however, each misdemeanor defendant arrested and sentenced to incarceration would represent a cost to local law enforcement in time and money, and an expense to the local jail to house and maintain. Jail costs represent a significant expense for local governments. Reducing the number of people who would be subject to arrest and incarceration would represent a savings to local law enforcement and local jails.

For example, in 2018 there were approximately 7,869 cases in Kentucky where a person was convicted of one or more of the marijuana offenses identified above (and not convicted of any more serious offense). Approximately 1,133 of these cases resulted in time served in a local jail. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, the cost estimated by the Department of Corrections (DOC) which equals the per diem and medical expenses the DOC pays local jails to house felony offenders. Estimating that 20%, or approximately 223, of those 1,113 people possessed "a personal use quantity" of marijuana, under current law each person could potentially be sentenced up to 365 days' incarceration in the local jail. If we estimate they serve an average of 30 days, statewide that would represent approximately \$209,664 in costs to local jails (223 inmates x \$31.34/day x 30 days=\$209,664). Under SB 82 that amount would represent approximate savings to local jails.

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

Part II, above pertains to the bill as introduced. There is no prior introduced version of the bill to complete Part III.

 Data Source(s):
 Administrative Office of the Courts, Research and Statistics; LRC Staff

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