

The bill would have an undeterminable to minimal negative fiscal impact on local governments. The bill could decrease the number of incarcerations for flagrant nonsupport (Class D felony) through the increase in the threshold arrearage and lengthening of the consecutive months of nonpayment of support. The bill would require the development of new work release policies and training of jail staff, and it would require increased supervisory responsibilities over work release. The new elements for the flagrant nonsupport crime could require the training of the county attorney's staff because the county attorney is generally the Cabinet for Health and Family Services' designee for recovering child support payments and prosecuting those who fail or refuse to make payments. The number of incarcerations for the Class A misdemeanor (nonsupport) could increase because of the increased threshold for flagrant nonsupport.

The Franklin County Attorney indicated that the bill would have no fiscal impact on his office, but that there could be consequences involved with delaying prosecution for flagrant nonsupport of persons until they reach an arrearage of \$10,000.

The Scott County Jailer indicated that he already has detailed policies concerning work release. There are associated administrative costs for data entry, pat downs, strip searches, escorted movements in the jail, accounting and reconciliation of the inmates' fees with their accounts, administering drug/alcohol tests, and random workplace confirmation (by a jail deputy). Costs for each of these areas could increase depending on the number of inmates subject to work release.

Nonsupport is a Class A misdemeanor. KRS 439.179 requires a Class A misdemeanor inmate who is participating in work release to pay for the cost of board in the jail (up to 25% of the prisoner's gross daily wages, not to exceed \$40 per day, but not less than \$12 per day). Money collected would be paid to the county treasury for the jail's use. The sentencing court may also order the employer to deduct, among other things, the prisoner's board and transportation costs incurred by the county and support of dependents. *Jail revenue for this fee could increase because of increased incarcerations.*

Flagrant nonsupport is a Class D felony. KRS 532.100 requires a Class C or D felony inmate housed in a county jail who participates in work release to pay, if required by the jailer, a fee that is the lesser of \$55 per week or 20% of the prisoner's weekly net pay, for the purpose of reimbursing the jailer for the cost of operating the work release program. *Jail revenue for this fee could decrease under the bill because of fewer incarcerations.*

The Administrative Office of the Courts provided statistics on nonsupport and flagrant nonsupport charges from January 1, 2019 through February 5, 2020. There were 700 convictions for nonsupport and 1,036 convictions for flagrant nonsupport. It may be likely that fewer people will be charged, and thus convicted, under the bill because of the increased threshold amount of \$10,000. It may also be that *more* people will be charged with nonsupport as the amount of arrearage increases (below \$10,000) and the number of consecutive months of nonpayment increases.

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 77 full service jails or three 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 77 full service jails or three 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

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

Part II refers to the bill as introduced.

Data Source(s): LRC Staff; Administrative Office of the Courts; Franklin County Attorney; Scott County Jailer; Department of Corrections

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