

SB 74 HCS would have no to minimal fiscal impact on local jails. “Aggravating circumstances,” including refusal to submit to a blood or urine test, double the mandatory minimum jail or prison time for a DUI conviction. SB 74 HCS has the potential to reduce the number of days spent in jail by persons who refuse to submit to blood or urine testing and are charged with a second or subsequent DUI offense, thus saving jails money. If their blood or urine is subsequently gathered and tested anyway, pursuant to court order, then their mandatory minimum sentence would not be increased.

While the expense of housing inmates varies by jail, the estimated savings 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. For example, the mandatory minimum jail time on conviction of DUI second offense within 10 years is 7 days; if an aggravating circumstance is present the mandatory minimum jail time increases to 14 days. That means that the cost to the jail housing the inmate increases from a minimum of \$219 (7 days x \$31.34/day=\$219) to a minimum of \$438 (\$31.34/day x 14 days=\$438). Eliminating the refusal as an aggravating circumstance would save the jail approximately \$219.

The bill imposes no requirement on local governments, including local law enforcement, to conduct blood or urine sampling. It appears from KRS 189A.105 (2)(b) that the state pays the upfront costs of blood or urine testing in DUI cases. That section currently requires that, if testing done pursuant to a warrant reveals the presence of alcohol or other substance that impaired the driving ability of a person convicted of DUI, the defendant must make restitution to the state for the cost of testing. In instances where the person charged is not convicted, according to the Kentucky Association of Chiefs of Police (KACP) the costs of testing may be paid by various sources, including the requesting agency (which could be a local police department or State Police) or, perhaps, a crime victim’s compensation fund. The cost of laboratory tests of urine and blood samples varies widely. An internet search revealed that drug or alcohol analysis of a urine sample performed at a laboratory typically costs **\$50-\$80** or more; drug and alcohol analysis of a blood sample typically costs under **\$100**. Based on this information, the approximate maximum cost to a local police department that requests and receives a warrant or other order for a blood and urine analysis would be \$180.

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

Part II pertains to the House Committee Substitute to the Senate GA version of SB 74. The GA version would have no fiscal impact on local governments. The House Committee Substitute would eliminate refusal to submit to a blood or urine alcohol test as an aggravating factor in a DUI charge IF the subject’s blood or alcohol were subsequently tested pursuant to court order or search warrant. That change would result in a minimally positive fiscal impact on local jail.

Data Source(s): Kentucky Association of Chiefs of Police; Kentucky Department of Corrections; website: <http://health.costhelper.com/drug-alcohol-test.html>

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