# Local Government Mandate Statement Kentucky Legislative Research Commission 2021 Regular Session

#### **Part I: Measure Information**

Bill Request #: 1414
Bill #: HB 402 SCS 1
<b>Document ID #:</b> <u>6511</u>
Bill Subject/Title: AN ACT relating to flagrant nonsupport.
Sponsor: Representative C Ed Massey
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

HB 402 SCS 1 amends KRS 530.050, by raising the qualifying threshold amount for flagrant nonsupport to an arrearage of \$2,500 (instead of \$1,000 currently in statute).

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. The new threshold amount for 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 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, for flagrant nonsupport, under the

bill because of the increased threshold amount of \$2,500. It may also be that *more* people will be charged with nonsupport (a Class A misdemeanor) as the threshold amount of arrearage increases (below \$2,500).

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 an average cost to incarcerate of \$37.35 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$37.35 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 average cost to incarcerate of \$37.35, which includes the \$31.34 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 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

HB 402 SCS 1 keeps the provisions of HB 402 GA, except changes the amount of arrearage from \$5,000 to \$2,500 in order to be charged with flagrant nonsupport.

HB 402 GA keeps the provisions of HB 402 HCS 1, except it returns the amount of arrearage to \$5,000 necessary to be charged with flagrant nonsupport.

HB 402 HCS 1 keeps the provisions of HB 402 as introduced except for reducing the amount of arrearage from \$5,000 to \$2,500 in order to be charged with flagrant nonsupport.

### Data Source(s): LRC Staff.

Preparer: Wendell F. Butler Reviewer: KHC Date: 3/5/21
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