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

## **Part I: Measure Information**

Bill Request #: 453						
Bill #: HB 440 GA						
<b>Document ID #:</b> <u>6468</u>						
Bill Subject/Title:         AN ACT relating to probation and parole.						
Sponsor: Representative Kimberly Poore Moser						
Unit of Government:       X       City       X       County       X       Urban-County         Unified Local       Unified Local       Unified Local       Unified Local       Unified Local						
X Charter County X Consolidated Local X Government						
Office(s) Impacted: Law Enforcement and Jail						
Requirement: X Mandatory Optional						
Effect on Powers & Duties: Modifies ExistingX_ Adds New Eliminates Existing						

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

HB 440 GA creates a new Section of KRS 439.250 to 439.560. HB 440 GA provides that a probation and parole officer must accommodate the probationer's or parolee's work schedule when scheduling required meetings. Except when a DNA sample is required, the meetings may be held via cell phone or other electronic device that allows for voice and video communication in real time. Such meetings, at the discretion of the officer and in accordance to administrative regulations promulgated by the Department of Corrections, may also be made available to self-employed individuals. These regulations shall provide minimum standards and guidelines for implementing voice/video meetings including standards for determining the eligibility and suitability of a probationer or parolee to meet the reporting requirements including consideration of the severity of the criminal conviction, criminal history, and current and past supervision levels.

**The fiscal impact HB 440 GA on local governments is indeterminable.** Probation and parole is a state function, thus any impact to local governments would be secondary. If HB 440 GA results in easier confirmation of good behavior and fewer parole violations, fewer people would be housed in local jails. If these individuals had been convicted of a misdemeanor, then the jail would save money. However, if these individuals had been convicted of a Class C or D felony, then the jail

might lose money if they would be able to house the prisoner for a cost less than the state's per diem.

One concern regarding the use of cell phones and other electronic devices is the availability of broadband throughout Kentucky. It is assumed, that if the probationer or parolee is unable to make contact with his probation/parole officer due to lack of broadband access, the penalty for missing a probation/parole meeting scheduled through an electronic communication device would be subject to the same penalty as if the meeting was held in person.

#### 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 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.

#### **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 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.

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 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. 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. 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, above, pertains to the GA version. The GA version is the same as the bill as introduced. No amendments or substitutes were adopted when the bill passed its chamber of origin.

Data Source(s): LRC Staff.

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