Local Government Mandate Statement Kentucky Legislative Research Commission 2021 Regular Session

Part I: Measure Information

Bill Request #: 1555
Bill #: SB 140 GA
Document ID #:6454
Bill Subject/Title: AN ACT relating to jails.
Sponsor: Senator Robby Mills
Unit of Government: X City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Jails
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

SB 140 GA requires counties that elect to house state prisoners to adopt the minimum standards:

- Provide for required documents to be made available through electronic format;
- Unmonitored phone lines and non-contact visitation areas so that prisoners may have unmonitored contact with their attorneys
- A means of preventing intoxicants in prisoner's mail, including in fabricated legal mail;
- A means for a prisoner to receive mail from the court, an attorney of record, or a public official to the prisoner via an electronic copy. This shall be provided on a secure, personal account and the mail would be opened and inspected in the presence of the prisoner.

The fiscal impact of SB 140 GA on local governments is indeterminable. To meet these requirements would entail at a minimum a secured computer, secured unmonitored

phone lines, and scanning equipment in order to digitize inmate mail unless contracted with a vendor to perform this function. Unless the jail already has these in place, an initial outlay of cash would be necessary. Additionally, and possibly harder to accommodate, depending on the jail, would be an area where a prisoner could meet with his or her attorney in private. This might be accommodated by repurposing current jail space or in extreme cases, making structural changes to the jail.

Smaller jails may not currently have the technical or fiscal means of fulfilling these requirements. In that case, they would lose their ability to house state prisoners and subsequently, lose reimbursement from the Department of Corrections for housing these prisoners. The amounts in jeopardy are detailed below.

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.

The Department of Corrections predicts this will have a significant policy and fiscal impact for local jails, but defers to the Kentucky Jailer's Association for a more accurate assessment.

The Kentucky Jailer's Association has been contacted for input. As of the date of this Local Government Mandate Statement (LM), they have not responded. Once a response is received, this LM will be updated accordingly.

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; KY Department of Corrections

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 3/4/21