



offense, is a Class C felony, eligible for a jail sentence of 5-10 years. A second or subsequent offense is a Class B felony, eligible for a state prison sentence of 10-20 years.

**Section 3** would amend KRS 218A.1415 to establish that a person is guilty of possession of a controlled substance in the 1st degree when they knowingly and unlawfully possess kratom. Possession of a controlled substance 1<sup>st</sup> degree is a Class D felony, eligible for a maximum jail sentence of three years; however, for a first or second offense the defendant may be subject to deferred prosecution or presumptive probation.

**The fiscal impact of HB 142 on local law enforcement and jails would be minimal to moderate.** Kratom is currently unregulated in Kentucky. Adding a new substance to the list of controlled substances will require a law enforcement response to activities surrounding kratom including training of law enforcement personnel. There is no data available to determine whether including kratom as a controlled substance would require additional training for law enforcement.

Adding new felonies could increase the number of persons incarcerated in local jails. 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 74 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 \$35.43 per day, which includes the \$31.34 per diem and medical expenses that the Department of Corrections (DOC) 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 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 74 full service jails or three life safety jails. Again, each additional inmate increases facility costs by an average of \$35.43 per day, which includes the \$31.34 per diem and medical expenses that the DOC 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 DOC 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.

A person convicted of a Class B felony is not eligible for incarceration in a local jail.

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

Part II applies to HB 142 as introduced. There is no earlier draft for comparison.

**Data Source(s):** Department of Corrections; LRC staff; National Institute on Drug Abuse at <https://nida.nih.gov/download/20489/kratom-drugfacts.pdf?v=c07ed8350fe125ca902631059ac3a5b7>

**Preparer:** Mary Stephens (wfb) **Reviewer:** KHC **Date:** 2/3/22