Local Government Mandate Statement Kentucky Legislative Research Commission 2022 Regular Session

Part I: Measure Information

Bill Request #: 905
Bill #: HB 185 GA
Document ID #: 8898
Bill Subject/Title: AN ACT relating to driving under the influence and declaring an emergency.
Sponsor: Representative Samara Heavrin
Unit of Government:XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment
Office(s) Impacted: Law Enforcement; jails
Requirement: <u>X</u> 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 185 GA shall be named Lily's Law. Under current law, KRS 189A.010, an individual convicted of DUI for their third offense within a ten year period shall be fined between \$500 and \$1,000 and shall be imprisoned in the county jail for a minimum of 30 days and a maximum of 12 months; certain moving violations will escalate the minimum to 60 days. **Section 1** removes these provisions and makes a third offense equivalent to the provisions currently applied to a fourth or subsequent offense within 10 years, which is a Class D felony.

Under current law, KRS 189A.110, an individual arrested for a violation of DUI shall be detained in custody for at least four hours following their arrest. **Section 2** amends the statute to increase the four hour minimum to eight hours.

Sections 3, 4, 5 and 6 amend KRS 189A.040, KRS 189A.200, KRS 189A.240, and KRS 281A.2102 respectively to conform to the provisions of **Section 1**.

The fiscal impact of HB 185 GA on local governments is indeterminate but expected to be minimal to moderate depending on the number of DUI convictions in a given local government. The data reflecting DUI convictions isn't granular enough to discern which charges were of the third, fourth, or subsequent offense, which would provide a more confident estimate on the fiscal impact of HB 185 GA. The provisions to escalate a third offense to a Class D felony could increase the amount of time an individual will spend in jail.

Misdemeanants are housed in one of Kentucky's 74 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 \$35.43 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 \$35.43 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 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, 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 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 HB 185 GA as amended by HCS 1, HFA 2, and Committee Amendment (1-title).

HCS 1 deleted all provisions from the bill as introduced. The bill, as introduced, amended KRS 189A.085 to require the court to issue an order directing a peace officer to seize a license plate or plates from an individual convicted of DUI under KRS 189A.010.

HFA 2 removes the requirement to impose a fine and imprisonment for 48 hours following a conviction of a first DUI offense. The courts may impose either option or both. In addition, **HFA 2** inserts **Section 2** to amend KRS 189A.110 to require a person arrested for a DUI violation to remain in custody for eight hours prior to release.

The fiscal impact of **HB 185 GA** on local governments remains the same as the impact for **HB 185 HCS 1**, though eliminating the provision to require a jail sentence upon a first offense could lessen the negative impact relative to **HB 185 HCS 1**.

Data Source(s): LRC Staff; Department of Corrections; Administrative Office of the Courts

Preparer: K. Sallee (mjo) Reviewer: KHC Date	9 :	3/24/22
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