



he or she shall be released unless the court finds there is a risk of harm to a person for which the risk can't be mitigated by nonfinancial conditions or a combination of conditions. The court may extend the 180 and 90 day timeframes for good cause.

If a person who remains in detention because of being unable to meet the conditions of pretrial release is not brought to trial within the above time frames, he or she shall receive a hearing no earlier than 14 days prior to and no later than 7 days after the expiration of the time frame at which time he or she shall be released unless the court finds convincing evidence of imminent serious harm to a person or persons other than the defendant.

If the court has previously found that the defendant poses a risk of imminent serious physical harm to another person, the defendant may make a motion for a hearing which shall be held as soon as possible. Following the hearing, the defendant may be released if the court finds circumstances have changed and the risk of harm can be addressed through court-ordered conditions of release.

Any delays resulting from competency hearings or examinations related to competency, and for any period of time for which the defendant is determined to be incompetent to stand trial shall be excluded when determining the 180 and 90 day time requirements. For periods prior to August 1, 2026, any delays resulting from the processing of evidence by the Kentucky State Police forensic laboratory shall also be excluded.

If the defendant is charged with a new offense after being released and before appearing for trial, the 180 and 90 day time calculations shall run independently for each matter. Additionally, if the defendant's bond is revoked after being released and before appearing for trial, the 180 and 90 day time calculations may be suspended for the duration of the pretrial release, and resume at the number of days the defendant previously spent in pretrial detention. Alternately, the time can be calculated from the day the defendant is detained after the revocation of bond or modification of the release conditions.

A defendant shall not remain in detention due to being unable to meet the conditions of pretrial release for a total period exceeding:

- the maximum term of imprisonment for most serious charge if the most serious offense is a misdemeanor; or
- the minimum term of imprisonment for the most serious charge if the most serious charge is a felony.

**Section 2:**

Conforming language and deletions relative to Section 1 and:

If a defendant is released on recognizance or unsecured bond and there is a history of controlled substance or alcohol abuse, the court may impose certain conditions of release, including periodic testing or a court-ordered alcohol monitoring device. Court-ordered fees shall be used to offset the cost of testing and analysis, unless the person is declared indigent at which time the fee shall be waived. Cost for the monitoring device shall also be paid by the defendant. If the person is declared indigent and another person, the county, or other

organization has not agreed to pay the costs, the court shall waive the cost and consider other conditions of release. Any condition imposed shall be the least restrictive necessary to ensure a future court appearance and mitigate danger, and shall not be imposed as a punishment.

**Section 3 and 4:** Conforming cite to Section 2, KRS 431.520,.

**The fiscal impact of SB 31 SCS 1 on local governments could be a moderate savings in regard to local jails. Testing and monitoring would have no impact, or minimal impact, on local governments.**

Court-ordered fees will be used to offset the cost of controlled substance testing and analysis. In cases where the defendant is declared indigent, the cost of testing shall be waived by the court. Monitoring devices might be paid for by the county only if a person or other organization has not agreed to pay for it. However, if the county does not agree to pay for it, then the court shall waive the cost or consider other conditions of release.

If pretrial release is emphasized, fewer defendants will be lodged in local jails. The housing of prisoners, prior to sentencing, is a direct expense to the local government, and thus would be a cost savings. If a Class D or Class C felon is later sentenced to incarceration, a shorter period in jail pre-conviction will mean the offender enters Department of Corrections' custody with fewer days of jail custody credit, which means he has a longer period of time to serve in state custody, at a cost to the state.

**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 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.

**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 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 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 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. 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 refers to SB 31 SCS 1.

SB 31 SCS 1 keeps most of the provisions of SB 31 as introduced, makes technical corrections, amends other statutes to conform, and makes the following changes.

Requires that the provisions of KRS 431.064 be considered when determining pretrial release for persons arrested for assault, sexual offense, or violation of a protective order

Deletes language requiring:

- an eligible defendant's participation in a global positioning system, monitoring, controlled substance testing, or home confinement **ONLY if no less restrictive condition(s) of release can be ordered;** and
- KSP evidence to prove a defendant's risk to another person in order to be excluded from the 180 and 90 time frame calculation, essentially making all delays resulting from KSP processing of evidence to be excluded.

Adds language regarding:

- hearings resulting from failure to meet the 180 and 90 day time frames for a court appearance and to consider eligibility for release;
- defendants charged with another crime while on pretrial release;
- making controlled substance and alcohol abuse testing and monitoring a condition of pretrial release; and
- hearings for determining if a defendant poses a risk of imminent serious physical harm to a person or persons other than himself or herself; and if not, allowing for immediate release.

There is no significant change to the local fiscal impact from the bill as introduced.

**Data Source(s):** LRC Staff, Department of Corrections

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