

- Burglary, first degree;
- Arson, second and third degrees;
- Robbery, first and second degrees;
- Assault of sports official
- Riot, first degree;
- Use of a weapon of mass destruction, second degree; and
- Human trafficking and promoting human trafficking.

“Money bail” means any financial condition or release including cash, property, and a percentage of cash bail, secured, unsecured, or otherwise.

“Standard conditions” means the defendant shall not commit another offense, shall appear for all court appearances, and shall avoid all contact with the alleged victim and potential witnesses.

“Violent or sexual offense” means domestic violence or abuse, any sexual offense within KRS Chapter 510, human trafficking involving commercial sexual activity, incest, unlawful transaction with a minor to engage in illegal sexual activity; use of a minor in a sexual performance, and promoting a sexual performance by a minor.

SB 331 ensures that no verified and eligible defendant shall be detained on money bail.

Pretrial services shall use a pretrial risk assessment tool to determine a person’s eligibility for release. SB 331 provides detail as to the assessment and qualifying for pretrial release. If the assessment results in a determination of low risk, the defendant may be released on his or her own recognizance subject to standard conditions including nonfinancial conditions.

The court shall make a bail determination based on low, moderate, or high risk, and if the individual has or has not been charged with an enhanced scrutiny offense or a violent or sexual offense. The conditions pertinent to each risk level are presented below:

Low Risk: If charged with a Class A, B, or C felony, but has not been charged with a violent or sexual offense, or an enhanced scrutiny offense, the defendant shall be released on his or her own recognizance subject to standard conditions.

If charged with an enhanced scrutiny offense or one of the crimes referred to in subsection (4)(1) 5 of SB 331, the defendant shall be released on his or her own recognizance subject to standard and nonfinancial conditions. If charged with a violent or sexual offense, the defendant may be released as above or detained for a detention hearing.

Moderate Risk: If charged with a Class A, B, or C felony, but has not been charged with a violent or sexual offense or an enhanced scrutiny offense, the

defendant shall be released on his or her own recognizance subject to standard and nonfinancial conditions.

If charged with an enhanced scrutiny offense or one of the crimes referred to in subsection (4)(1) 5 of SB 331, the defendant shall be released on his or her own recognizance subject to standard and nonfinancial conditions or detained for a detention hearing.

If charged with a violent or sexual offense, the defendant shall be detained for a detention hearing.

High Risk:

If the defendant has been charged with a violation, misdemeanor, or Class D felony and has not been charged with a violent or sexual offense or an enhanced scrutiny offense, the defendant shall be released on his or her own recognizance subject to standard conditions and possible additional nonfinancial conditions.

If the defendant has been charged with a Class A, B, or C felony and has not been charged with a violent or sexual offense or with an enhanced scrutiny offense, the defendant may be released on his or her own recognizance subject to standard conditions and possible nonfinancial conditions or detained for a detention hearing.

If the defendant has been charged with a violent or sexual offense or with an enhanced scrutiny offense, the defendant shall be detained for a detention hearing.

The defendant may also be referred to substance abuse treatment. Refusal to comply shall not disqualify the defendant from being granted pretrial release.

The detention hearing shall be held within five days of detainment and may be held at arraignment. SB 331 provides detail regarding the court's responsibility and the defendant's rights during the hearing, and the findings.

The fiscal impact of SB 331 on local governments is indeterminable, but expected to be minimal depending on the number of defendants actually qualifying and being granted pretrial release as provided by the proposal. Pretrial release directly impacts the time defendants spend in local jails. Local jails are responsible for housing state inmates until they are released, convicted, or transferred to a state jail.

Whereas this pertains to **pretrial** incarceration, reimbursement from the Department of Corrections for housing state prisoners is not available. However, KRS 441.265 requires an inmate in a county jail to reimburse the county for expenses incurred by his or her confinement. Those expenses include:

- an administrative processing or booking fee;
- a per diem cost of not more than \$50 per day or the actual cost, whichever is less;
- any charges for medical and dental treatment; and
- any property damages or any injury caused by the prisoner while confined.

Collection of these fees would offset the cost to the jail. Likewise, shorter duration in jails will also reduce the impact.

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

Part II refers to SB 331 as introduced. There are no prior versions of this bill.

Data Source(s): LRC Staff

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 3/10/22