Local Government Mandate Statement Kentucky Legislative Research Commission 2023 Regular Session

Part I: Measure Information

Bill Request #: 1522
Bill #: HB 371
Document ID #: 3601
Bill Subject/Title: AN ACT relating to promoting contraband.
Sponsor: Representative Jared Bauman
Unit of Government: X City X County X Urban-County 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

HB 371 amends KRS 520.050 to create an enhanced penalty for promoting contraband in the first degree when the contraband is fentanyl, carfentanil, or fentanyl derivatives, increasing the charge from a Class D felony to a Class B felony. Section 2 of the bill amends the definition of "violent offender" in KRS 439.3401 to include anyone who commits a Class B felony violation of promoting contraband in the first degree. Violent offenders who have been convicted of a Class B felony must serve at least 85% of their imposed sentenced before being considered for release on probation or parole.

HB 371 would have an indeterminate positive fiscal effect on local jails. According to the Administrative Office of the Courts, there have been 4,764 convicted cases of promoting contraband in the first degree between CY 2018 and CY 2022. It is not known how many of these cases involved fentanyl, carfentanil, or fentanyl derivatives. However, any offender who received the enhanced penalty under HB 371 would be convicted of a Class B felony violation as opposed to a Class D felony. Those convicted of Class B felonies spend time in state prisons and not local jails, so each conviction under HB 371

would save jails the amount that they would have spent housing what otherwise would have been a Class D felon. The paragraph below details how much local jails would save for each person convicted of a Class B felony as opposed to a Class D felony.

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 \$40.11, which includes the \$35.34 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 \$35.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

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

Part II refers to HB 371 as drafted.

Data Source(s): LRC Staff

Preparer: Ryan Brown (MS) **Reviewer:** KHC **Date:** 3/2/23