Local Government Mandate Statement Kentucky Legislative Research Commission 2023 Regular Session

Part I: Measure Information

Bill Request #: 1649
Bill #: HB 398
Document ID #: 3846
Bill Subject/Title: AN ACT relating to driving under the influence and declaring an emergency.
Sponsor: Representative Patrick Flannery
Unit of Government: X City X County X Urban-County Unified Local X Charter County X Consolidated Local X Government
Office(s) Impacted: Law Enforcement, Jails
Requirement: X 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 398 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 398 on local governments is indeterminate but expected to be minimal to moderate depending on the number of DUI convictions in a given jurisdiction. 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 398. 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 \$40.11 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 \$40.11 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 \$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 398 as introduced. There are no previous versions.

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

Courts

Preparer: Jacob Blevins (WB) **Reviewer:** KHC **Date:** 3/10/23