Local Government Mandate Statement Kentucky Legislative Research Commission 2024 Regular Session

Part I: Measure Information

Bill Request #: 119						
Bill #: HB 98						
Document ID #: 1983						
Bill Title: AN ACT relating to crimes and punishments.						
Sponsor: Representative DJ Johnson						
Unit of Government:XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment						
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

Section 1 amends KRS 506.040 to increase the penalty for criminal conspiracy to the level provided for the offense which is the object of the conspiratorial agreement when the defendant engages in the criminal conspiracy with a minor.

Section 2 amends KRS 527.100 to increase the penalty of possession of a handgun by a minor from a Class A misdemeanor to a Class D felony for the first offense and from a Class D to Class C felony for subsequent offenses.

The fiscal impact of HB 98 is indeterminable. Under current law, the penalty for criminal conspiracy is generally one level less severe than the underlying offense targeted by the conspiracy. However, HB 98 proposes to increase the penalty to match the severity of the primary offense when the conspiracy involves a minor. This change would elevate the penalty level in such cases, potentially affecting the duration of sentences for those convicted. Nevertheless, the frequency of these specific circumstances is unknown, making it difficult to accurately estimate the resulting cost implications for local jails.

The penalty increases outlined in Section 2 would similarly impact time served for those convicted and sentenced for possession of a handgun by a minor. However, convicted cases of this offense are rare. From 2019 to 2023, there were 88 convicted cases of possession of a handgun by a minor, 1st offense, and 17 convicted cases for a subsequent offense. The impact of these penalty increases on local jails would thus likely be minimal, but on the positive side with the penalty increase from a Class A misdemeanor to a Class D felony for the first offense. This shifts the cost responsibility from the local jails to the state.

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 \$44.97 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 \$44.97 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 \$44.97, 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.

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 \$44.97, which includes the \$35.34 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 \$35.34 per day to house these Class C felons. The per diem may be less than, equal to, or greater than the actual housing cost.

Data Sourc	Exe(s): <u>LRC Staff: Adr</u> <u>Corrections</u>	ninistrative Office	ce of the Courts	; Kentucky Depa	<u>rtment of</u>
Preparer:	Ryan Brown (BL)	Reviewer:	КНС	Date:	1/17/24