

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2022 Regular Session**

Part I: Measure Information

Bill Request #: 905

Bill #: HB 185 HCS 1

Document ID #: 8136

Bill Subject/Title: AN ACT relating to driving under the influence.

Sponsor: Representative Samara Heavrin

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Law Enforcement; jails

Requirement: Mandatory Optional

Effect on

Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 185 HCS shall be named Lily's Law. Under current law, KRS 189A.010, an individual convicted of driving under the influence (DUI) for their first offense within a ten year period will be fined between \$200 and \$500 or be imprisoned in the county jail for a minimum of 48 hours and a maximum of 30 days. **Section 1** amends KRS 189A.010 to impose both, the fine and imprisonment, upon an individual's first conviction of DUI under KRS 189A.010.

Under 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 that will escalate the minimum to 60 days. **Section 1** removes these provisions and makes the third offense equivalent to the provisions currently applied to a fourth or subsequent offense within 10 years. The bill will make the conviction of a third or subsequent DUI offense a Class D felony.

Sections 2, 3, 4 and 5 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 185 HCS on local governments is indeterminate but expected to be minimal to moderate depending on the number of DUI convictions in a given local government.** The requirement to serve jail time upon receipt of the first conviction may increase local jail populations. The data reflecting DUI convictions isn't granular enough to discern which charges were of the first or third offense, which would provide a more confident estimate on the fiscal impact of **HB 185 HCS 1**.

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.

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 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, above, pertains to **HB 185** as amended by **HCS 1**. **HCS 1** deletes all provisions from the bill as introduced. The bill, as introduced, amended KRS 189A.085 to require the court to issue an order directing a peace officer to seize a license plate or plates from an individual convicted of DUI under KRS 189A.010.

The fiscal impact on local governments is different from the bill as introduced as the introduced version impacted only law enforcement, while HCS 1 will impact jails as well. **The fiscal impact has changed from minimal to indeterminate and has potential to be moderate.**

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

Preparer: K. Sallee **Reviewer:** KHC **Date:** 3/18/22