

- KRS 530.064(1)(a) (Unlawful transaction with a minor in the first degree when illegal sexual activity is involved, Class A, B, or C felony);
- KRS 531.310 (Use of a minor in a sexual performance, Class A, B, or C felony);
- KRS 531.320 (Promoting a sexual performance of a minor, Class A, B, or C felony); and
- Any felony in KRS Chapter 209 (Protection of Adults).

To convict a person of an offense against a vulnerable victim in a continuing course of conduct, the jury shall unanimously agree that two or more acts in violation of the same statute occurred with the same victim and during a specific period of time. The jury need not agree on which specific acts occurred.

The penalty, probation and parole eligibility, and other consequences of an offense charged under HB 109 shall be the same as for the offense when charged based on an individual act.

HB 109 HCS retains the major provisions of the measure as introduced while expanding the definition of “offense against a vulnerable victim” to include any violation of:

- KRS 510.050 (Rape in the second degree of a victim who is under the age of 14 or otherwise vulnerable, Class C felony);
- KRS 510.080 (Sodomy in the second degree of a victim who is under the age of 14 or otherwise vulnerable, Class C felony);
- KRS 510.120 (Sexual abuse in the second degree of a victim who is under the age of 14 or otherwise vulnerable, Class A misdemeanor);
- KRS 529.100 (Human trafficking involving commercial sexual activity and the victim is a minor or otherwise vulnerable); or
- KRS 529.110 (Promoting human trafficking, Class C or D felony).

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

Current law cited in Part II of this Local Mandate provides for prosecution of offenses against vulnerable victims. Furthermore, KRS 505.020 already permits multiple prosecutions for a single course of conduct. In light of these facts, HB 109 HCS establishes another prosecutorial option for the same conduct, resulting in various minimal Local Mandate outcomes.

Since an individual would be arrested under current law for one or more elements of offenses established under HB 109 HCS, it is likely that law enforcement will have a nil to minimal increase in duties.

Since an individual would be prosecuted under current law for one or more elements of offenses established under HB 109 HCS, it is likely that an individual denied bail for a misdemeanor or a felony under the measure would already be denied bail in any event for violating current law. Therefore, there may be a minimal increase in the number of times that bail is denied, resulting in a minimal

increase in jail costs due to jails having to pay for housing an individual awaiting trial at the cost of \$31.31 per day.

HB 109 HCS creates two Class A misdemeanors: one for repeated violations of KRS 508.120 in a continuing course of conduct and the other for repeated violations of KRS 510.120 in a continuing course of conduct of a victim who is under the age of 14 or otherwise vulnerable. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky's 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. While the majority of misdemeanor defendants are granted bail, those who are not granted bail will also cost jails an average of \$31.34 per day. **Since one or more elements of these two misdemeanors may already be prosecuted under current law, it is likely that there will be few additional convictions under HB 109 HCS. Therefore, it is likely that jails will have a minimal increase in costs for housing misdemeanants convicted under the provisions of HB 109 HCS.**

HB 109 creates various Class A, B, C, and D felonies.

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 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average cost of \$31.34 per day. 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 \$31.34 per day to house a Class D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the estimated 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 78 full service jails or life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. Convicted Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 18 months or less in their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Data Source(s): Department of Corrections; LRC staff; KRS; Kentucky Sheriffs Association; Kentucky Jailers Association

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