



- KRS 510.080 when the sodomy in the second degree is of a victim who is under the age of 14, **the same age as set forth in KRS 510.080**, or otherwise vulnerable (Class C felony);
- KRS 510.090 when sodomy in the third degree is of a victim who is under the age of 14, **not 16 or 18 as set forth in KRS 510.090**, or otherwise vulnerable (Class D felony);
- KRS 510.110 (Sexual abuse in the first degree of a victim who is under the age of 14, **not 12 or 16 as set forth in KRS 510.110**, or otherwise vulnerable (Class C or D felony);
- KRS 510.120 (Sexual abuse in the second degree of a victim who is under the age of 14, **not 16 or an adult as set forth in KRS 510.120**, or otherwise vulnerable (Class A misdemeanor);
- KRS 529.100 (Human trafficking of a minor or otherwise vulnerable person and involving commercial sexual activity, Class B or C felony);
- KRS 529.110 (Promoting human trafficking of a minor or otherwise vulnerable person and involving commercial sexual activity, Class C or D felony);
- KRS 530.020 when the incest is with a victim who is under the age of 14, **not 12 or 18 as set forth in KRS 530.020**), or otherwise vulnerable (Class A, B, or C felony);
- 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 the specified time period. The jury need not agree on which specific acts occurred.

If a person is convicted of an offense against a vulnerable victim in a continuing course of conduct, that person may not also be convicted of charges based on the individual unlawful acts that were part of the continuing course of conduct.

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

An emergency is declared to exist.

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

**Current law referred to 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. However, HB 109 GA establishes another prosecutorial option for the same conduct, and some additional conduct, while prohibiting multiple prosecutions under current law cited under Part II of this Local Mandate and KRS 505.020. HB 109 GA limits the possibility of a defendant claiming Double Jeopardy as a defense by limiting prosecutions under current law while expanding prosecutions in some instances. As a consequence, HB 109 GA has an indeterminable but likely minimal fiscal impact on local governments.**

**Since an individual would be arrested under current law for one or more elements of most of the offenses established under HB 109 GA, it is likely that law enforcement will have an indeterminable but minimal increase in duties.**

**Since an individual would be prosecuted under current law for one or more elements of most of the offenses established under HB 109 GA, it is likely that an individual denied bail for a misdemeanor or a felony under the GA version of the measure would already be denied bail in any event for violating current law. Therefore, there should be an indeterminable but likely minimal increase in the number of times that bail is denied under HB 109 GA, resulting in a minimal increase in jail costs due to jails having to pay for housing an individual awaiting trial at the cost of \$31.34 per day.**

HB 109 GA 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 where the victim 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 GA. Therefore, it is likely that jails will have a minimal increase in costs for housing misdemeanants convicted under the provisions of HB 109 GA.**

HB 109 GA 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

**Preparer:** Scott Varland      **Reviewer:** JWN      **Date:** 1/20/16