# Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

#### **Part I: Measure Information**

Bill Request #: 193	
Bill #: SB 130 SCS	
Bill Subject/Title:	Pornography.
Sponsor: Senator V	hitney Westerfield
Unit of Government:	Unified Local
Office(s) Impacted:	Charter County Consolidated Local Government  None
Requirement:	Mandatory Optional
Effect on Powers & Duties:	Modifies Existing Adds New Eliminates Existing
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#### **Part II: Purpose and Mechanics**

Please find below a summary of SB 130 as introduced. The SCS changes are provided on page 2 of this Local Mandate.

KRS Chapter 531 establishes various crimes relating to pornography.

SB 130 creates exceptions to prosecutions under KRS Chapter 531. An exception applies when an individual in a specified category participates in a specified investigation or litigation:

- 1. Peace officers and other law enforcement personnel;
- 2. Prosecutors, their personnel, and any individual the prosecution seeks to qualify as an expert;
- 3. Judges, jurors, and other personnel of the Court of Justice;
- 4. Criminal defense counsel and their personnel, private civil counsel and their personnel, and any individual the defense or private counsel seeks to qualify as an expert;
- 5. A litigant in any criminal or civil litigation to which the matter relates; and
- 6. A litigant, counsel, or expert witness in any criminal or civil litigation to which the matter relates possessing or viewing the matter pursuant to a court order.

Some individuals may possess pornographic evidence without a court order. Others must obtain a court order before possessing pornographic evidence.

### SB 130 SCS makes the following changes:

- 1. When a criminal defense attorney or a member of his or her staff, a civil attorney or a member of his or her staff, or any individual a criminal defense or civil attorney seeks to qualify as an expert examines pornographic evidence, the evidence shall remain not only in the custody (per SB 130 as introduced) but also under the supervision of a court, a prosecutor's office, or a law enforcement agency.
- 2. When a litigant in any criminal or civil litigation examines pornographic evidence, he or she shall do so not only in the presence of his or her attorney (per SB 130 as introduced) but also in the presence of court, prosecutor, or law enforcement personnel.
- 3. Before conducting a hearing that may result in an order issued under item 4., a court shall notify the prosecutor and the law enforcement agency which conducted the forensic inspection of the motion and hearing.
- 4. When a court issues an order permitting a party to view or possess pornographic evidence, the order shall direct the government agency that conducted the forensic inspection of the matter to produce a read-only forensic image of the original medium which contains the matter the party seeks to examine.

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

## SB 130 SCS is expected to have no fiscal impact on local governments.

KRS Chapter 531 establishes various crimes relating to pornography. SB 130 SCS carves out exceptions to KRS Chapter 531. The Kentucky Association of Chiefs of Police, Kentucky Commonwealth's Attorneys Association, and Kentucky Association of Criminal Defense Lawyers are unaware of any person ever having been charged with a crime that would come within one of the SB 130 SCS exceptions. Therefore, it is expected that these exceptions will have no impact on crimes and punishments in the Commonwealth.

Data Sourc	e(s): Kentucky A	Kentucky Association of Chiefs of Police; Kentucky Commonwealth's					
	Attorneys A	Association; Kentuck	y Association of	Criminal Defen	<u>ise</u>		
	<u>Lawyers</u>						
Preparer:	Scott Varland	Reviewer:	JWN	Date:	2/15/16		