

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

Part I: Measure Information

Bill Request #: 1065

Bill #: SB 25 GA

Bill Subject/Title: AN ACT relating to abortion

Sponsor: Senator Max Wise

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

Office(s) Impacted: Jails; local prosecutors

Requirement: Mandatory Optional

Effect on

Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

The purpose of SB 25 GA is to re-classify certain crimes related to abortions and to establish the crime of selling part or all of an aborted fetus. Current law KRS 311.990 classifies the following acts as Class D felonies:

1. Intentionally and knowingly performing an abortion without determining the abortion is necessary, in violation of KRS 311.723(1)
2. Performing a partial-birth abortion in violation of KRS 311.765
3. Performing an abortion on a married woman without notifying her spouse, in violation of KRS 311.735
4. Performing an abortion elsewhere than in a hospital, in violation of KRS 311.760(2); and
5. Performing an abortion by the saline method in violation of KRS 311.770
6. Performing an abortion after a fetus may be expected to have reached viability in violation of KRS 311.780.

The bill would amend KRS 311.990 to classify violations of the above statutes as Class C felonies. The bill would also amend KRS 311.990 to establish that selling or charging money for all or part of an aborted fetus when the abortion was induced is a Class C felony.

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

SB 25 GA will have little or no fiscal impact on local governments.

The bill will have little or no fiscal impact on local jails because of the very few criminal prosecutions that would likely occur under the affected statutes. From Calendar Year (CY) 2011 through CY 2015 there were no prosecutions for violation of KRS 311.723(1), KRS 311.735, KRS 311.750, KRS 311.760(2), KRS 311.765, KRS 311.770 or KRS 311.780. The *potential* fiscal impact of re-classifying violations of the statutes from a lower to a higher class felony results from the difference in incarceration requirements of the two classification. When a court denies bail to a Class D or 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 five life safety jails. Upon sentencing, Class D felons are housed in one of Kentucky's full service jails for the duration of their sentence, and the Department of Corrections pays the local jail \$31.34 per day for their keep. Since the per diem pays the estimated average cost of housing a Class D felon the per diem may be less than, equal to, or more than the actual housing cost. Class C felons, though, are ineligible for placement in local jails after conviction until they are classified at the lowest custody level with 18 months or less to their minimum expiration date or parole eligibility date. This means that, as a result of SB 25 GA, local jails may hold, and receive payment from Department of Corrections for, fewer felony defendants. Since jail costs may differ, whether this results in a loss of income to the local jail depends on whether the per diem actually covers the actual cost of housing in that jail, or not.

The bill would also have little or no fiscal impact on the local prosecutors' offices for the same reason; however, if a case for violation of any of the affected statutes did go to trial it would be likely to have a fiscal impact on those offices because of the need for expert witness testimony. Expert witness testimony averages \$3,000 to \$5,000 per trial.

Data Source(s): Administrative Office of the Courts; LRC staff; Kentucky County Attorneys Association

Preparer: Mary Stephens **Reviewer:** JWN **Date:** 2/10/16