

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

The fiscal impact of SB 148 on local governments is expected to be nil to minimal.

SB 148, Section 1 could arguably expand the current definition of “obscene” in KRS 531.010(3), where SB 148 references as examples of an “obscene visual image” – the distribution of which is illegal – “exposure of uncovered human genitals, buttocks, or nipple of the female breast.” Such expansion of the definition of “obscene” could increase the number of persons prosecuted and held in local jails. However, SB 148 criminalizes the distribution of such matter where the person depicted is “identifiable,” either from the image itself or from material distributed with the image, and if it is distributed with the intent to harm, harass, intimidate, etc. the person depicted, and disclosure would cause a reasonable person to suffer harm.

Violation of SB 148 would be a Class A misdemeanor unless the matter is distributed for profit or gain, in which case it would be a Class D felony. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky’s 76 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 do not will also cost local jails an average of \$31.34 per day.

The number of persons who would be charged with a felony violation of SB 148 is unknown, but should be minimal. However, 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 76 full service jails or five (5) 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. 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 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 actual housing cost.

Data Sources: LRC staff

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/16/17