Local Government Mandate Statement Kentucky Legislative Research Commission 2018 Regular Session

Part I: Measure Information

Bill Request #: 124
Bill #: HB 101 GA
Document ID #:665
Bill Subject/Title: AN ACT relating to crimes and punishments.
Sponsor: Representative Joseph Fischer
Unit of Government: X City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Law Enforcment and Jails
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing X Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

Section 1 amends KRS 510.020, which defines whether a person is deemed incapable of sexual consent, the statute is amended by expanding the list to include the victim being sixteen or seventeen years old and the actor being 28 years or more at the time of the sexual act.

Section 2 amends KRS 510.030 to further expand the list of defenses to include whether the defendant being 28 years or older knew at the time of the sexual act that the victim was sixteen or seventeen years old, but only in a prosecution in which the victim's lack of consent is based solely on the victim's incapacity to consent due to that age difference.

Section 3 and 4 amends KRS 510.060 and KRS 510.090 to expand the list of acts for which a person is guilty of rape and/or sodomy in the third degree (Class D felony) to include being 28 years old or more and he or she engages a victim who is sixteen or seventeen years old at the time of sexual intercourse.

Sections 3 and 4:

The Department of Community Based Services within the Cabinet For Health and Family Services along with the Kentucky State Police provided that the number of reported sexual abuse cases involving a 16-17 year old victim and a perpetrator age 28 or older averaged 100 cases per calendar years 2014, 2015, and 2016; and 84 cases for CY 2017 thru November 2.

By expanding what constitutes a Class D felony to include rape in the third degree and sodomy in the third degree, an increase in the number of Class D felons being incarcerated might result.

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 four 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, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. 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 actual housing cost.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The GA version to this bill does not have any changes from the bill as introduced. There were no committee substitutes or floor amendments adopted.

Data Source(s): LRC Staff; Department of Corrections, Kentucky State Police, Department

of Community Based Services.

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 1/5/18