

incapable of consent or is under 16, or an agent of a jail subjecting one incarcerated, to sexual contact), which is a Class A misdemeanor subject to a maximum sentence of 90 days to 12 months in jail, could, under SB 109, subject the actor to a charge of Rape in the first degree (sexual intercourse with a person by forcible compulsion, or with a person incapable of consent) a Class B felony subject to a sentence of 10 to 20 years.

It is unknown how many additional persons would be arrested and incarcerated for higher level violations of KRS Chapter 510 as a result of SB 109 GA. Therefore, the fiscal impact on local law enforcement and jails is indeterminable, but should be moderate.

When a court denies bail to a Class C or 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 (DOC) pays a jail 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 and DOC pays the jail the per diem of \$31.34 to house each Class D felon. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The DOC pays local jails the \$31.34 per diem to house these Class C felons. Since the per diem pays the estimated average cost of housing a Class C or D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

A person convicted of a Class B misdemeanor may be incarcerated up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, this estimated impact is based on \$31.34 per day, which equals the per diem and medical expenses that the DOC pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an estimated average \$31.34 per day.

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

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/23/18