

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2019 Regular Session**

Part I: Measure Information

Bill Request #: 340

Bill #: 145

Document ID #: 1458

Bill Subject/Title: AN ACT relating to hate crimes.

Sponsor: Representative Reginald K. Meeks

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

Office(s) Impacted: Law Enforcement, Jails

Requirement: Mandatory Optional

Effect on
Powers & Duties: Modifies Existing Adds New Eliminates Existing

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

HB 145 creates a new section of KRS Chapter 525 to define hate crime and related penalties. HB 145 defines hate crime as when a person intentionally causes physical injury to another person or, through the use of a deadly weapon or a dangerous instrument, attempts to cause physical injury to another person because of that person's actual or perceived race, religion, national origin, gender, sexual orientation, gender identity, or disability.

HB 145 provides that a hate crime is a Class B felony, unless death results or the offense includes an attempt to commit murder, the offense includes kidnapping or the attempt to commit kidnapping, or the offense includes a sexual offense or the attempt to commit a sexual offense, in which case it is a Class A felony.

HB 145 defines "gender identity" to mean actual or perceived gender-related characteristics. "Sexual offense" is defined as rape in the first, second, and third degree; sodomy in the first, second, and third degree, or sexual abuse in the first, second, or third degree.

The fiscal impact on local governments is indeterminable. Any sexual offense crimes that are designated as a hate crime during sentencing, will have an impact on local jails and the state

corrections systems due to the category of offense being increased to a Class A felony from either a misdemeanor offense or a Class C or D felony. Local jails will no longer be responsible for the housing costs of any misdemeanor offenses and local jails will no longer receive reimbursement from the state for any Class C or D felony offenses.

Hate crimes come into play at the point of sentencing, there are not separate Uniform Offense Reporting (UOR) codes differentiating hate crimes from any other offenses. An original case record would contain information about whether any given conviction's sentence is enhanced due to being a hate crime, but unfortunately, this data is not entered into Administrative Offices of the Court's case management system except perhaps as a memo, and therefore we cannot capture it in aggregate to report statistics.

A person convicted of a Class B misdemeanor may be incarcerated for 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 will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections 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 average of \$31.34 per day.

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 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. 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 Department of Corrections pays a jail \$31.34 per day to house a Class C or Class D felon. Since the per diem pays for the estimated average cost of housing a Class C or 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

Part II refers HB 145 as introduced. There are no prior versions of the bill.

Data Source(s): Administrative Offices of the Court, Department of Corrections, LRC Staff

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 1/30/19