Local Government Mandate Statement Kentucky Legislative Research Commission 2019 Regular Session

Part I: Measure Information

Bill Request #: 1065 R2				
Bill #: SB 190				
Document ID #: 3492				
Bill Subject/Title: An ACT relating to hate crimes.				
Sponsor: Senator Gerald A. Neal				
Unit of Government: X City X County X Urban-County Unified Local				
X Charter County X Consolidated Local X Government				
Office(s) Impacted: Law Enforcement, Jails				
Requirement: X Mandatory Optional				
Effect on Powers & Duties: Modifies ExistingX Adds New Eliminates Existing				
Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local				

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

SB 190 creates a new section of KRS Chapter 525 to create the offense of a hate crime and to provide related penalties.

SB 190 defines a hate crime as the intent to commit crimes detailed in the table below because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of another individual.

KRS	Description	Penalty
507.020	Murder	Capital Offense
507.030	Manslaughter 1	Class B Felony
507.040	Manslaughter 2	Class C Felony
507.050	Reckless Homicide	Class D Felony

KRS	Description	Penalty
508.010	Assault 1	Class B Felony
508.020	Assault 2	Class C Felony
508.250	Assault 3	Class D Felony*
508.030	Assault 4	Class A Misdemeanor
508.050	Menacing	Class B Misdemeanor
508.060	Wanton Enforcement 1	Class D felony
508.100	Criminal Abuse 1	Class C Felony
508.110	Criminal Abuse 2	Class D Felony
509.020	Unlawful Imprisonment	Class D Felony
510.040	Rape 1	Class B Felony**
510.050	Rape 2	Class C Felony
510.060	Rape 3	Class D Felony
510.070	Sodomy 1	Class B Felony***
510.080	Sodomy 2	Class C Felony
510.090	Sodomy 3	Class D Felony
512.020	Criminal Mischief 1	Class D Felony
512.050	Criminal Use of Noxious Substance	Class B Misdemeanor
512.060	Criminal Possession of Noxious Substance	Class B Misdemeanor
513.020	Arson 1	Class A Felony
513.030	Arson 2	Class B Felony
513.040	Arson 3	Class d Felony
525.020	Riot 1	Class D Felony
525.050	Unlawful Assembly	Class B Misdemeanor
525.060	Disorderly Conduct 1	Class B Misdemeanor
525.070	Harassment 2	Class B Misdemeanor
525.080	Harassing Communication	Class D Misdemeanor

^{*}Class B Misdemeanor if bodily fluids are used by an adult who knowingly has a communicable disease.

^{*}Class A Misdemeanor if the bodily fluids are likely to cause transmission of the disease or condition.

^{**}Class A Felony is the victim is under 12 or results in physical injury.

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SB 190 provides that a hate crime will be a separate offense, and shall be punished in addition to violations of other statutes during the same course of conduct.

SB 190 provides that a hate crime be punishable at the same level as the offense enumerated above which is part of the commission of the hate crime.

SB 190 requires that a person convicted of a hate crime shall not be released until 85% of the sentence imposed is served. SB 190 also provides that a hate crime conviction may be used by the Parole Board in delaying or denying parole to a defendant.

The fiscal impact of SB 190 on local governments is indeterminable.

Hate crimes come into play at the point of sentencing. They are not separate Uniform Crime Reporting 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 the Administrative Offices of the Court case management system except perhaps as a memo, and therefore we cannot capture it to report statistics.

Class B and Class A misdemeanors:

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.

Class D and Class C felons:

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 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.

When a court denies bail to a 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. 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 local jails \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C 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 pertains to SB 190 as introduced. There are no prior versions of the bill.

Data Source(s): Adminitrative Offices of the Courts, Department of Corrections, LRC Staff

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 2/18/19