Local Government Mandate Statement Kentucky Legislative Research Commission 2020 Regular Session

Part I: Measure Information

Bill Request #: 2093
Bill #: SB 242
Document ID #: 6173
Bill Subject/Title: AN ACT relating to human trafficking.
Sponsor: Sen. Morgan McGarvey
Unit of Government: X City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Jails; jailer
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

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

SB 242 amends KRS 439.3401, relating to parole for violent offenders, to add, in the definition of "violent offenders," those persons convicted of "promoting human trafficking under KRS 529.110" to the list of individuals convicted of promoting human trafficking. The definition already includes persons convicted of "human trafficking." The bill prohibits persons convicted of human trafficking or promoting human trafficking from being released on probation or parole until at least 85 percent of the imposed sentence has been served. Human trafficking under KRS 529.100 is a Class C felony or, if it involves serious physical injury to a victim, a Class B felony. The penalty is one level higher if the victim is a minor. Promoting human trafficking under KRS 520.110 is a Class D felony (Class C felony if the victim is a minor).

The bill has an indeterminable to minimal fiscal impact on local governments.

The bill designates offenders of the human trafficking and promoting human trafficking offenses as "violent offenders." In addition to the increased period of incarceration (85%)

versus 15%) before parole, this designation maybe a significant factor that would preclude Class C felons from being incarcerated in a county jail.

Generally speaking, most Class D felons are required by statute to be housed in one of the 77 full service county jails for up to five years. Class C felons are eligible for placement in county jails only after they are classified at the lowest custody level with 24 months or less until their minimum incarceration expiration date or parole eligibility date. In determining the classification for custody level for the Class C felons, the Department of Corrections reviews many factors, including the severity of the offense, prior criminal record, and disciplinary violations while in custody.

Because the bill lengthens the period of incarceration before parole for Class D felonies, there is a fiscal impact on counties. Currently, a Class D felon is subject to parole eligibility after serving 15% of the recommended sentence (KRS 439.340). Under SB 242, the Class D felon (promoting human trafficking under KRS 520.110) would be required to serve 85% of the sentence.

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 77 full service jails or three 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.

In 2019, there were nine Class D felony convictions under KRS 520.110. Without SB 242, and assuming those felons received the maximum sentence for a Class D felon of five years, they would be eligible for parole after serving nine months (15%) in the county jail. With SB 242, they would be eligible for parole after serving 51 months in the county jail. For a single Class D felon, this would be approximately 42 months of additional incarceration, or approximately \$39,488.40 (42 months X 30 days average X \$31.34 daily reimbursement from DOC). Again, this may be less than, equal to, or greater than the actual housing cost. Because of the few number of convictions, this is a minimal impact.

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

Part II, above, relates to the bill as introduced.

Data Source(s): LRC staff; Kentucky Revised Statutes; Department of Corrections;

Administrative Office of the Courts

Preparer: Robert Jenkins **Reviewer:** KHC **Date:** 3/17/20