Local Government Mandate Statement Kentucky Legislative Research Commission 2021 Regular Session

REVISED 1/29/21

Part I: Measure Information

Bill Request #: 13
Bill #: SB 9 GA
Document ID #:2450
Bill Subject/Title: AN ACT relating to the protection of born-alive infants and declaring an emergency.
Sponsor: Senator Whitney Westerfield
Unit of Government: X City X County Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Police; 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

SB 9 asserts the Commonwealth's finding that an infant born alive through an attempted abortion is a legal person deserving of legal protection. Healthcare providers would be required to supply life-saving and life-sustaining medical care and treatment. The bill would prohibit any person from denying/depriving a born-alive infant of nourishment or medically appropriate and reasonable medical care or treatment, or surgical care, and would establish certain civil penalties against the healthcare provider, including a civil action for compensatory and punitive damages and disciplinary action. It would make the intentional violation of the requirements to provide health care a Class D felony.

The bill also creates a new Class D felony relating to the healthcare providers' intentional failure to provide medical care and treatment.

There are no official statistics relating to the number of Kentucky abortions resulting in infants born alive. According to The Annenberg Public Policy Center of the University of Pennsylvania, six states require data reporting on abortions that result in infants born alive. Of those, Arizona reported the highest number with 12 out of 12,438 abortions in 2018. (Lozier Institute)

The Administrative Office of the Courts reports that there has been one prosecution related to Kentucky's abortion laws since 2017, with none in 2020. The prosecution related to discrimination for refusal to submit to an abortion (KRS 311.810), and the ultimate disposition was a "not guilty" finding on an amended charge.

SB 9 would have minimal fiscal impact on local government. SB 9 establishes two new Class D felonies, which would some additional training for law enforcement, and there would be increased demands on work load for law enforcement, jails, and county attorneys associated with local the number of arrests, prosecutions, and incarcerations. However, the number of persons who would violate the law, if similar to the number of people who violate current abortion laws, would be very few.

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 average cost to incarcerate of \$37.35, which includes the \$31.34 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. 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, above, pertains to the GA version. The GA version is the same as the bill as introduced. No amendments or substitutes were adopted when the bill passed its chamber of origin.

Data Source(s): https://lozierinstitute.org/abortion-reporting-arizona-2018/; Administrative

Office of the Courts; Department of Corrections; LRC staff

Preparer: Robert Jenkins **Reviewer:** KHC **Date:** 1/8/21