Local Government Mandate Statement Kentucky Legislative Research Commission 2022 Regular Session

Part I: Measure Information

Bill Request #: _2091	
Bill #: SB 211	
Document ID #: 5694	
Bill Subject/Title: AN ACT relating to pornography.	
Sponsor: Senator Adrienne Southworth	
	ban-County
X Charter County X Consolidated Local X Gov	
Office(s) Impacted: Jails, Law Enforcement	
Requirement: X Mandatory Optional	
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates F	Existing

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

Under current law (KRS 531.070), a person is exempt from the prohibitions and penalties imposed in KRS Chapter 531 if the person has a bona fide scientific, educational, governmental, or other similar justification. KRS Chapter 531 is related to obscene materials, voyeurism, and related matter. SB 211 amends the statute to remove the educational justification that would exempt an individual from these prohibitions and penalties. The chapter includes Class A and B misdemeanors as well as felonies of Class A, B, C, and D.

The fiscal impact of this legislation is indeterminable, but expected to be minimal. The removal of the exemptions effectively creates new crimes and there is a lack of data reflecting violations that would have been otherwise prosecuted.

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 12 months. Misdemeanants are housed in one of Kentucky's 74 full service jails or three life safety

jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$35.43 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$35.43 per day.

When a court denies bail to a Class A, B, C, or D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 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 \$35.43, 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. 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 D and Class C felon. The per diem may be less than, equal to, or greater than the actual housing cost. Class A and B felons are ineligible for placement in local jails.

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

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

Data Source(s): Department of Corrections; LRC Staff

Preparer: K. Sallee/mjo **Reviewer:** KHC **Date:** 3/2/22