

Section 2:

Amends KRS 510.020 to raise the age from 16 to 18 that a person is deemed capable of consent.

Sections 5, 6 and 7:

Amends KRS 510.040, KRS 510.050, and KRS 510.060, in cases where the victim becomes pregnant, to increase the classification of rape in the first to a Class A felony; rape in the second degree to a Class B felony; and rape in the third degree to a Class C felony. KRS 510.060 also changes the age from 21 to 18 when engaging in sexual intercourse with another person between 14 and 18 years old (currently 16) in regards to rape in the third degree, unless the persons are married to each other.

Section 8:

Amends KRS 510.090 regarding the crime of sodomy to change the age from 21 to 18 when engaging in sexual intercourse with another person between 14 and 18 years old (currently 16) in regards to rape in the third degree, unless the persons are married to each other. Sodomy in the third degree is a Class D felony.

Section 9:

Amends KRS 510.110 to change the age from 21 to 18 regarding the crime of sexual abuse in the first degree when engaging in sexual contact including masturbation in the presence of a person or while using the internet, telephone, or other electronic communication device with a person who is less than 18 (currently 16). Sexual abuse in the first degree is a Class D felony, unless the victim is less than 12 in which the offense is a Class C felony.

Section 10:

Amends KRS 510.120 and KRS 510.130 to changes the victim's age from 16 to 18 in regards to sexual abuse in the second and third degrees, Class A and Class B misdemeanors, respectfully.

Section 12:

Amends KRS 530.020 to provide that if a person becomes pregnant as a result of an incestuous act by consenting adults, the classification increases from a Class C felony to a Class B felony. If the victim is less than 12 and becomes pregnant as a result of the incestuous act, the crime of incest as a Class A felony

Section 13:

Amends KRS 530.064 regarding unlawful transactions with a minor, KRS 521.310 regarding the use of a minor in a sexual performance and KRS 531.320 regarding promoting a sexual performance by a minor to increase the classification for these crimes to a Class A felony when that minor becomes pregnant as a result of those acts.

HB 491 also deletes language in order to conform with the above provisions.

The fiscal impact of HB 491 is indeterminable but expected to be minimal.

The major changes provided by HB 491 are in regards to age relative to specific crimes and if a crime results in pregnancy, both scenarios possibly resulting in minor increases in the number of charges over current charges based on current parameters. There will be a fiscal impact where the crime classification increases to the next level due to the above circumstances.

There will be a learning curve for law enforcement, but this should be easily absorbed into current training.

Local jails will be affected as follows:

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 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 \$40.11 per day. While most misdemeanor defendants are granted bail, those who are not will also cost local jails an average cost to incarcerate of \$40.11 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 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 of \$40.11 per day to incarcerate, which includes the \$35.34 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 \$35.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

When a court denies bail to a Class C felony defendant, the local government is responsible for incarcerating the defendant in one of Kentucky's 74 full-service jails or three life safety jails until disposition of the case. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average of \$40.11 per day to incarcerate, which includes the \$35.34 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 \$35.34 per day to house these Class C felons. 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 to HB 491 as introduced. There are no prior versions.

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

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