

Local Government Mandate Statement
Kentucky Legislative Research Commission
2024 Regular Session

Part I: Measure Information

Bill Request #: 868

Bill #: HB 278 GA

Document ID #: 6991

Bill Title: AN ACT relating to the protection of children.

Sponsor: Representative Edward Matthew Lockett

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Law Enforcement, Jails

Requirement: Mandatory Optional

Effect on
Powers & Duties: Modifies Existing Adds New Eliminates Existing

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

Section 1 of the bill amends KRS 15A.190 to require the Justice and Public Safety Cabinet to report childhood sexual assault or abuse statistics as defined in Section 3 of the bill. The Justice and Public Safety Cabinet will be required to report those statistics along with other offenses that are currently required in KRS 15A.190.

Section 2 amends KRS 160.380 to prevent superintendents from employing a person who has been classified as a violent offender, has been convicted of a sex crime, is required to register as a sex offender, or has an administrative finding of child abuse or neglect.

Section 3 amends KRS 413.29 to remove the statute of limitations for a civil action for recovery of damages for injury or illness suffered as a result of childhood sexual assault or abuse.

Section 4 amends KRS 510.050 to reclassify rape in the second degree as a Class B felony if the defendant is a person in a position of authority or special trust.

Section 5 amends KRS 510.080 to reclassify sodomy in the second degree as a Class B felony if the defendant is a person in a position of authority or special trust.

Section 6 amends KRS 510.155 to reclassify unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities as a Class C felony (increased from a Class D felony); however, if the defendant is a person in a position of authority or special trust or if the minor or perceived minor procured or promoted is being trafficked for commercial sexual activity, the penalty is increased to a Class B felony.

Section 7 amends KRS 529.100 to increase the penalty for human trafficking to a Class B felony unless the victim is a person under the age of eighteen (18), where it increases the penalty to a Class A felony.

Section 8 amends KRS 529.110 to increase the penalty for promoting human trafficking to a Class C felony unless the victim is under eighteen (18) years old, where it increases the penalty to a Class B felony.

Section 9 amends KRS 531.340 to increase the penalty for first offenses of distribution of matter portraying a sexual performance by a minor to a Class C felony. It also increases the penalty for first offenses of distribution of matter portraying a sexual performance by a minor less than twelve (12) years old to a Class B felony. Any person convicted under Section 9 shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

Section 10 amends KRS 532.060 to include five years of postincarceration supervision for those convicted of use of a minor in a sexual performance, promoting sexual performance by a minor, possession or viewing of matter portraying a sexual performance by a minor, human trafficking, promoting human trafficking, or distribution of matter portraying a sexual performance of a minor.

The expected fiscal impact of this bill is undeterminable because the number of expected offenders cannot be estimated, but it is likely to be positive because it reclassifies some Class D felonies to Class C felonies and imposes a requirement to have the individual serve 85 percent of the sentence prior to parole eligibility. This decreases the number of inmates serving time in local county jails. While local jails do receive a state reimbursement for housing state inmates, the reimbursement may be greater than, equal to, or less than the actual housing cost borne by local government.

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 cost to incarcerate of \$44.97, 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 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 \$44.97, 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.

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

Preparer: Bart Liguori (RB) **Reviewer:** KHC **Date:** 2/27/24