

**Local Government Mandate Statement  
Kentucky Legislative Research Commission  
2024 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 1649

**Bill #:** HB 289

**Document ID #:** 3365

**Bill Title:** AN ACT relating to incest.

**Sponsor:** Representative Nick Wilson

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 HB 289 amends KRS 530.020 to expand what constitutes “incest” as used in criminal statutes. The bill expands “incest”, to include engaging in “sexual contact” with select persons known to be members of one’s own family. The bill establishes the penalty for sexual contact with a family member to be a Class D felony unless it is committed with a person who is less than twelve (12) years of age, in which case it is a Class C felony.

**Section 2** amends KRS 439.3401 to add certain offenses to those that would classify a person convicted of any such offenses as a “violent offender.” These offenses include sexual contact with a family member.

**HB 289 would have an indeterminate negative fiscal impact on local jails.** People classified as “violent offenders” are prohibited by KRS 439.3401 from being awarded credit on their sentence if it reduces the term of imprisonment to less than 85% of the sentence. Adding offenses to the list of violent offender offenses would thus increase the

minimum sentence for those offenses. Similarly, establishing the penalty of sexual contact with a family member as a Class D felony would increase the potential number of people that may be incarcerated in local jails for Class C or D felonies. Any additional people incarcerated or time served resulting from the bill represents additional daily expenditures to house inmates.

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:** 1/19/24