

restricting or regulating abortion by a particular method or during a particular stage of pregnancy.

SB 9 would provide an exception to the requirements in Sections 4 - 6 where a medical emergency necessitates termination of a woman's pregnancy, so long as the required documentation of medical emergency is maintained in the physician's records. "Medical emergency" is defined as risk of death or serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman if the pregnancy continues. In addition, a pregnant woman would not be in violation of Section 5 or Section 6 if the abortion was intentionally performed or induced by another.

Section 8 would provide that nothing in Sections 1-11 prohibits the availability of a drug, device, or chemical designed for contraceptive purposes.

Section 13 of the bill would create two new Class D felonies: violation of Section 4(1) by performing an abortion before determining whether the unborn baby has a detectable heartbeat; violation of Section 6(1) by performing or inducing an abortion where a fetal heartbeat has been detected except in a medical emergency.

Section 16 would exempt Sections 1 – 15 of the bill from operation of KRS 6.945, which prohibits the Legislature from imposing any expenditure or tax levy mandate on cities unless the mandate is fully funded or is contingent on city approval.

The fiscal impact of SB 9 on local governments would be minimal. While the creation of two new felonies suggests some impact on local law enforcement and jail facilities, the likelihood of criminal prosecution and incarceration under the new felonies is small. The Administrative Office of the Courts reports that from January 1, 2017 to December 31, 2018 there were **no** criminal prosecutions and **no** incarcerations for violations of current abortion laws in KRS 311.723 - 311.787, which include requirements similar to those in SB 9.

If a person is arrested, prosecuted, and incarcerated for violation of SB 9 there could be some expense to local government. A Class D felony defendant is generally released on bail; however, 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 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the 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. Since the per diem pays for the estimated average cost of housing 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 bill as introduced. There is no prior version of the bill to complete Part III.

Data Source(s): Administrative Office of the Courts; Department of Corrections; LRC staff

Preparer: Mary Stephens **Reviewer:** _____ **Date:** _____