Local Government Mandate Statement Kentucky Legislative Research Commission 2018 Regular Session

Part I: Measure Information

Bill Request #: 1998
Bill #: HB 494
Document ID #: 4923
Bill Subject/Title: AN ACT relating to the protection of Kentucky's adults.
Sponsor: Rep. Daniel B. Elliot
Unit of Government: x City x County x Urban-County Unified Local
<u>x</u> Charter County <u>x</u> Consolidated Local <u>x</u> Government
Office(s) Impacted: local law enforcement and jails
Requirement: <u>x</u> 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

HB 494 amends KRS 381.230 to permit the owner of land to sue to prevent or restrain any trespass to the land. HB 494 amends KRS 381.230 to permit an owner or lessee of residential property to maintain an action to prevent or restrain any trespass on the property without the payment of court costs or fees or the posting of bond, when that owner or lessee is 55 or older or qualifies as an adult as defined in KRS 209.020. Any peace officer may enforce a court order to prevent or restrain the trespass.

Current law (KRS 209.990) creates a statutory scheme to criminalize the abuse, neglect, or exploitation of an adult. Depending on the severity of the crime, a person is convicted of a Class C or Class D felony or a Class A or Class B misdemeanor.

HB 494 repeals most of the KRS 209.990 statutory scheme and replaces it with a more detailed scheme that nonetheless retains similar penalties for abuse, neglect, or exploitation of an adult.

The fiscal impact of HB 494 on local governments is expected to be minimal.

According to the Kentucky Association of Chiefs of Police, since local peace officers currently enforce court orders as a part of their regular duties, and since HB 494 requires a small increase in the number of court orders that local peace officers will have to enforce, there will be a minimal increase in responsibilities for local law enforcement.

The new statutory scheme that criminalizes the abuse, neglect, or exploitation of an adult retains the criminal penalties from the old statutory scheme.

Because the old criminal penalties are maintained under the new statutory scheme, it is doubtful that there will be much change in the cost to local jails under HB 494. The jail costs associated with felony incarcerations are described below.

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 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.

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 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. 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 \$31.34 per day to house these Class C felons. Since the per diem pays for the estimated average cost of housing a Class C felon, the per diem may be less than, equal to, or greater than the actual housing cost.

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 76 full service jails or four life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

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

The Part II section above pertains to the bill as introduced and there are not any prior introduced versions of the bill to complete the Part III section.

Data Source(s): KY Assoc. of Chiefs of Police; Administrative Office of the Courts;

Kentucky Department of Corrections

Preparer: H. Marks Reviewer: KHC Date: 2/28/18