Local Government Mandate Statement Kentucky Legislative Research Commission 2020 Regular Session

Part I: Measure Information

Bill Request #: 965								
Bill #: HB 174 GA								
Document ID #: 6056								
Bill Subject/Title: AN ACT relating to public records and declaring an emergency.								
Sponsor: Rep. Chris Freeland								
Unit of Government: X City X County X Urban-County Unified Local X Charter County X Consolidated Local X Government								
Office(s) Impacted: All offices that respond to requests for open records; law enforcement								
Requirement: X Mandatory Optional								
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing								

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

HB 174 GA exempts, from Open Records law requirements, any "photographs or videos that depict the death, killing, rape, or sexual assault of a person," except that they may still be made available at the request of any party (or family or legal representative or an insurance company) involved in the underlying incident. The Act has an emergency provision allowing it to take effect upon its becoming law.

The fiscal impact is minimal. A local government responding to an open records request will not be required to produce these records except in limited circumstances, and will save expenses relating to staff time, materials, and reproduction of the records. However, a local government will lose *some* revenue derived from the "reasonable fee" it may charge under KRS 61.874 for the "actual cost of reproduction." (The fee could not include staff time involved with copying.) Fees for staff time and certain other costs may be charged for records requested in a nonstandardized format or for a commercial purpose (KRS 61.764).

As examples of typical fees, the City of Danville charges 10 cents per page for paper copies, 99 cents for an audio recording, and 99 cents for a DVD. The City of Louisville charges 10 cents per page for paper copies and \$2 for audio tape or CD. There are additional charges for color or nonstandard size copies. The actual cost for mailing is additional. Louisville may not charge for copies sent via fax, and there is charge for emailed records.

There may be minimal training related to the bill's provisions.

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

Part II, above, pertains to HB 174 GA. The fiscal impact of HB 174 GA is unchanged from that of HB 174 HCS 1. HB 174 GA includes the HFA 1, which was adopted and made no substantive change (as relates to the local mandate). The only changes to HB 174 GA were to:

- remove "physical or" and "or abuse" from the provision exempting photographs or videos that depict the death, killing, rape, or sexual assault of a person from the Open Records Act. The affect is to allow photographs or videos depicting physical assault or abuse of a person to be subject to Open Records; and
- remove Section 2, amending KRS 61.872, pertaining to the right to inspect public records. This section had been included in the HCS solely to make technical changes. The deletion does not have a substantive impact.

The fiscal impact of HB 174 HCS 1 was unchanged from that of HB 174 as introduced. HB 174 HCS 1 made the following changes to the introduced version:

- permitted the photographs or videos to be made available at the request of any party (or family or legal representative or an insurance company) involved in the underlying incident, while the introduced version did not allow them to be made available to these persons;
- deleted the references to "gruesome photograph or video";
- deleted language applying the bill's provisions to civil or criminal proceedings;
- deleted language allowing the retroactive application to videos or photographs in existence prior to the bill's effective date; and
- made technical changes relating to the facsimile or email transmission of applications to inspect public records.

Data Source(s):	LRC Staff; https://www.danvilleky.org/open-records; https://louisvilleky.gov/sites/default/files/public_works/pdf_files/standardcopycharges.pdf						
Prenarer:	Robert Jenkins	Reviewer•	KHC		Date:	2/28/20	