Local Government Mandate Statement Kentucky Legislative Research Commission 2020 Regular Session

Part I: Measure Information

Bill Request #: 1132
Bill #: HB 322 HCS 1
Document ID #:
Bill Subject/Title: AN ACT relating to law enforcement seizure and forfeiture of money and other property, making an appropriation therefor, and declaring an emergency.
Sponsor: Representative Savannah Maddox
Unit of Government: X City X County X Urban-County Unified Local X Charter County X Consolidated Local X Government
Office(s) Impacted: Law Enforcement 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 322 HCS 1 amends KRS 218A.440 to require all law enforcement agencies to electronically submit an asset seizure and forfeiture reporting form to the Justice and Public Safety Cabinet (JPSC) within 30 days following the close of each fiscal year. This form must declare whether or not the agency seized or received forfeited assets pursuant to KRS 218A.415.

Agencies who seized or received forfeited money or property, must complete and electronically submit a cabinet developed report with specific data listing the money or property and the disposition of each for the preceding fiscal year.

Within 90 days following the close of each fiscal year, JPSC will notify any law enforcement agency that has not submitted the required report and put them on notice that they have 30 days to submit the report to the cabinet. Any agency who does not submit the report within this timeframe, shall pay a \$500 late filing fee to the cabinet. These funds shall be deposited into the general fund.

Additionally, no expenditures from any of the law enforcement agency's forfeiture proceeds shall be made until the form is submitted.

Ninety days after the asset seizure and forfeiture reporting forms are due, JPSC shall provide a written detailed report to the Attorney General, LRC and the Interim Joint Committee on Judiciary as well as publish this report on its website. Additionally, the cabinet will provide a report to the Attorney General, LRC and the Interim Joint Committee on Judiciary that lists all the law enforcement agencies that have failed to submit the required report. At that time, those agencies failing to submit the form shall become liable for the full value of all property and money seized, and the Attorney General shall institute civil actions for recovery of money or property obtained or retained by the agency.

Section 2 of this bill creates a definition of "Law enforcement agency."

According to the Kentucky Office of Drug Control Policy, the agency currently tasked with compiling asset forfeiture reports, 285 law enforcement agencies out of approximately 350 have submitted these reports as of December 12, 2019, Currently, there is no requirement to submit a report if there were no asset seizures. Cash seizures for FY 19 range from \$20 (Ft. Mitchell Police Department to nearly \$3.8 million dollars (Louisville Metro Police Department). 497 vehicles were also seized.

Law enforcement agencies retain 85 percent of cash and sale proceeds of seized and forfeited assets, for use in direct law enforcement activities. Asset seizure and asset disposition may not occur in the same fiscal year due to judicial processes and timelines. In FY 19, approximately \$7.6 million in cash was awarded to law enforcement agencies while approximately \$11.657 million in cash was seized.

The fiscal impact of this bill is indeterminate and should be minimal as the frequency of law enforcement agencies failing to comply is expected to be low to none.

Costs local law enforcement may incur but not quantifiable, include staff training costs and staff time or temporary help related to compiling and entering data. Costs related to non-compliance include the \$500 late fee and potential legal costs associated with civil action related to the recoveries of all the money seized and the full value of all property seized. Substantial costs could be realized if legal proceedings occur and the agency must come up with large sums of restitution.

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

The fiscal impact of HB 322 HCS 1 remains the same as the original impact of HB 322 as introduced.

HCS 1 removes the requirement for law enforcement agencies to electronically submit asset seizure-and forfeiture reporting forms for money or property seized in fiscal years 2018 and 2019. Staff time and the possible need for temporary help will be reduced as a result of removing the requirement to electronically submit reports for fiscal years 2018 and 2019.

Data Source(s): LRC Staff; Kentucky Justice and Public Safety Cabinet, Office of Drug

Control Policy

Preparer: Mark Offerman **Reviewer:** KHC **Date:** 2/21/20