

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2020 Regular Session**

Part I: Measure Information

Bill Request #: 1184

Bill #: HB 394 HCS 1

Document ID #: 6685

Bill Subject/Title: AN ACT relating to playgrounds.

Sponsor: Rep. Daniel B. Elliott

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Parks and Recreation; fiscal court

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

HB 394 HCS 1 would require wheelchair accessibility for any new playground built by a local government, along with wheelchair access ramps, wheelchair-friendly surfaces, and at least one wheelchair swing, *if the project is funded wholly with federal or state funds, or a combination thereof*. This would also not apply to contracts for existing playground projects prior to the effective date of the Act nor to playgrounds built entirely with private funds.

The fiscal impact is nil.

Local governments were required to make playgrounds compliant with the federal Americans with Disabilities Act by March 2012. An ADA-compliant playground must:

- have ramps and/or paved, clear travel routes;
- include a variety of accessible play options; and
- provide a proper surface under all accessible equipment.

If the ground is not altered but equipment is replaced, the ADA may not require resurfacing. The ADA does not specifically require a wheelchair swing, thus including a wheelchair swing, ramp, and an accessible surface leading to it would be additional costs if the local government used federal and/or state funds for the project. Because the bill does not require playgrounds built with local funds to have these items beyond what is required by the ADA, the fiscal impact is nil.

Currently, counties have several options to provide for parks and recreation services. Counties may work with a city or school board in the provision of its parks and recreation system under KRS 97.010 and 97.035. Counties may form a regional park authority under KRS 97.095. These arrangements may provide opportunity for sharing of costs associated with a playground. They may also apply for grants up to \$500,000 (or up to 50% of the project's cost) to establish local parks and recreation facilities under KRS 147A.028. If they were to do so, then the playground would need a wheelchair swing, ramp, and wheel-chair friendly surface. Additionally, certain nonprofit organizations may offer assistance for the purchase of accessible equipment.

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

Part II, above, refers to HB 394 HCS 1. **The fiscal impact of HB 394 HCS 1 has changed from that of HB 394 as introduced.** HB 394 as introduced required any playground project built with *public* funds, which would have included local government funds, to have a wheelchair swing, wheelchair access ramp, and wheelchair-friendly surfaces. This would have had a minimal to moderate fiscal impact on local governments. HB 394 HCS 1 deleted the words “public funds” and replaced them with “wholly federal or state funds or a combination thereof.” This change eliminates the mandate on local governments because local funds for a playground would not be required to include the swing and any addition ramp and accessible surface associated with it.

Data Source(s): LRC staff; Americans With Disabilities Act of 1990, and ADA Standards for Accessible Design (2010); Kentucky Association of Counties; <http://accessadvocates.com/ada-compliance-for-playgrounds/> (accessed February 11, 2020; County Government in Kentucky, LRC Informational Bulletin No. 115 (rev. 2019); <https://www.aaastateofplay.com/wheelchair-swing-platform/>; <https://www.theradapt.com/Store/ShowProduct.aspx?ID=3780>

Preparer: Robert Jenkins **Reviewer:** KHC **Date:** 3/5/20