

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2021 Regular Session**

Part I: Measure Information

Bill Request #: 1266

Bill #: HB 273 SCS 1

Document ID #: 6594

Bill Subject/Title: AN ACT relating to public records and declaring an emergency.

Sponsor: Representative Chris Freeland

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

Office(s) Impacted: Law enforcement; all offices that respond to Open Records requests

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 273 SCS 1 would exempt “photographs or videos that depict a person's death, killing, rape, or sexual assault of a person” from Kentucky’s Open Records Act. The photos or videos would still be made available to a:

- victim or victim’s family, victim’s legal representative, or an involved insurance company or its representative;
- state agency or political subdivision investigating official misconduct; or
- legal representative for a person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident. The person under investigations/charged/pled/guilty “shall not be permitted to have access to the photographs or videos.”

The bill has an emergency clause and would take “effect upon its passage and approval by the Governor or upon its otherwise becoming a law.”

The fiscal impact is minimal. A local government responding to an open records request would 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 could 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).

Examples of typical fees include:

- City of Danville charges 10 cents per page for paper copies, 99 cents for an audio recording, and 99 cents for a DVD;
- City of Louisville charges 10 cents per page for paper copies and \$2 for audio tape or CD, with additional charges for color or nonstandard size copies. The cost for mailing is additional. Louisville may not charge for copies sent via fax;
- City of Henderson charges 10 cents per page for black and white copies and 25 cents per page for color copies. Photographs are 10 cents each for black and white and 25 each for color. A CD or audio tape is \$2 each, which a 16 GB flash drive is \$8 each.

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 273 SCS 1, which makes the following change to HB 273 GA:

- prohibits the person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident from obtaining or having access to photographs or videos depicting the victim’s death, killing, rape, or sexual assault.

The fiscal impact of HB 273 SCS 1 is the same as for HB 273 GA.

The GA version was the same as the bill as introduced. No amendments or substitutes were adopted when the bill passed its chamber of origin.

Data Source(s): LRC Staff; <https://www.danvilleky.org/open-records>;
https://louisvilleky.gov/sites/default/files/public_works/pdf_files/standardcopycharges.pdf;
<https://www.cityofhendersonky.org/DocumentCenter/View/1214/Open-Records-Request-Form-wFee-Schedule-92018?bidId=>

Preparer: Robert Jenkins **Reviewer:** KHC **Date:** 3/5/21