

HB 469 creates a new section of KRS Chapter 15 to prohibit profiling and to provide guidelines for making contact with an individual for possible violations of law. Profiling is defined to mean the practice of relying on race, ethnicity, gender, national origin, language, religion, sexual orientation, gender identity, age, or disability in determining the existence of probable cause. The officer shall report to his agency the following information:

- demographic information;
- whether or not the contact was a traffic stop;
- the duration and reason for the contact;
- the suspected crime, the results of the contact, and actions taken by the officer during the contact.

The officer shall provide their business card to a detained person who has not been cited or arrested. Starting July 1, 2023, the above information will be collected and submitted annually by the Justice and Public Safety Cabinet to the General Assembly. The information will be presented in aggregate and broken down by law enforcement agency.

Additionally, starting January 1, 2023, the following shall be reported to Justice and Public Safety Cabinet by the Kentucky State Police and local law enforcement agencies:

- All use of force incidents by peace officers that result in death or serious physical injury.
- All instances when an officer resigned while under investigation for violating department policy.
- All data related to contacts conducted by officers.
- All instances of unannounced entry into a residence, with or without a warrant.

Local law enforcement agencies shall not report personal identifying information of a use of force subject, a victim of official misconduct, or persons contacted, searched, or subjected to property seizure.

Local law enforcement agencies that fail to meet its reporting requirements are subject to having their Law Enforcement Foundation Program funds suspended.

HB 469 requires an officer to stop another officer from using unlawful force while detaining, arresting, or booking a person; taking a person into custody; executing a warrant; or as part of crowd or riot control. Within ten days of the intervention, the intervening officer shall make a written report of the intervention to the immediate supervisor including date, time, location, the identity and description of the participants, and a description of the intervention actions taken. The intervening officer will not be disciplined or retaliated against. Failure to intervene is a Class A misdemeanor.

When an officer is not charged with an offense although he or she was at the scene where an officer was charged with using force, a Commonwealth or county attorney shall release a report detailing the basis for not charging other officers. Disclosure of the

report may be delayed up to 45 days, or if it would substantially interfere with an ongoing criminal investigation, the report shall not be released

The fiscal impact of HB 469 on local governments is expected to be minimal. The local government must have a written policy and procedures manual related to mandatory drug and alcohol testing of police officers after the discharge of a firearm or deadly incident. There will be cost regarding formulating, writing, implementing and disseminating a procedures manual including the dedication of personnel to accomplish that. To meet these requirements, officers will need to dedicate time to complete the required contact report.

Failure of any local agency to meet the reporting requirements of HB 469 will be subject to suspension of Law Enforcement Foundation Program funds. Currently, that amount is \$4,000 per qualifying officer plus any administrative expense reimbursement.

In regards to an officer failing to intervene to prevent the use of unlawful force:

- A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$37.35 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$37.35 per day.

The **Kentucky Association of Chiefs of Police** are concerned with many issues regarding due process for the accused officer and very limited safeguards in place to protect the rights of the accused officer.

The **Fraternal Order of Police** have similar concerns inclusive of the following:

- feel much of the bill is currently covered in other statutes;
- mandatory drug testing after "discharge of a firearm" might include discharging on the firing range and training scenarios;
- implementation by smaller rural Police Departments and Sheriff Offices is a concern, the majority of which are 10 officers or less. Requiring a drug and alcohol test be performed within two hours of discharging a firearm or deadly incident could be a problem if you are the only officer/deputy working and you have a scene and other duties to cover;
- concerns over how HB 469 and KRS 15.520, the statute currently providing for complaint against police officers, will coexist;
- the Kentucky Law Enforcement Council already addresses decertification;
- required documentation is excessive; and
- officers should only be required to provide their last name and their badge number. A complaint can be filed with only that information.

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

Part II refers to HB 469 as introduced.

Data Source(s): LRC Staff

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