Local Government Mandate Statement Kentucky Legislative Research Commission 2021 Regular Session

Part I: Measure Information

Bill Request #: 1147	
Bill #: HB 520	
Document ID #: 475	0
•	AN ACT relating to private information of public officials and declaring n emergency
Sponsor: Representative John Blanton	
Unit of Government:	XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment
Office(s) Impacted:	Jails
Requirement: X	Mandatory Optional
Effect on Powers & Duties:	Modifies Existing X Adds New Eliminates Existing

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

HB 520 **Section 1** would create a new section of Kentucky's Open Records Act to establish that a judicial officer, law enforcement agent, or prosecutor and their immediate family member or authorized agent, may request that their personally identifiable information (PII) be designated confidential and exempted from disclosure under the Open Records Act. Section 1 includes a definition of each of those terms. Following such request a public agency shall not post, re-post, publish, or otherwise make known the PII and shall redact such information within three business days of the request. If the public agency cannot redact within three business days it shall notify the requester, in writing, within 24 hours of the failure to redact and state the reasons why. These exemptions would be in addition to any currently-existing exemptions or privacy protections. HB 520 would not prevent a public agency from using PII as required to perform its duties.

HB 520 **Section 2** would establish that disseminating personally identifiable information by a person or a data broker in violation of the Act's prohibitions would be a crime. The

criminal classification would range from a Class B misdemeanor through a Class A felony, depending on the intent of the disseminator and the level of physical or monetary injury to the victim.

HB 520 would have a **moderate fiscal impact on local governments.** Local governments would incur expense in employee time and effort to remove the prohibited information from their web sites and other publications or documents. Louisville-Jefferson County Property Valuation Administrator believes the cost could be substantial to PVA offices, and that her office would need to pay its information technology vendors to redact the information.

There would also be a cost to jails, the amount depending on the number of persons arrested, prosecuted, and incarcerated for violation of the bill. 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 \$37.35 per day, which includes the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. One person convicted of a misdemeanor violation of HB 520 and sentenced to one year, or 365 days, in jail, would cost the local jail at least \$11,439.10 per year (365 days x \$31.34/day = \$11,439.10).

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$37.35 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a D felon; a local jail would receive \$11,439.10/year from DOC for housing a person convicted of felony violation of HB 520. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

The bill also provides for civil liability and collection of actual and punitive damages for its violation. It is unknown how much a local government might be required to pay in the event it was found to have violated the provisions of HB 520.

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

Part II applies to HB 520 as introduced. There is no earlier version for comparison.

Data Source(s): <u>LRC staff; Department of Corrections</u>

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/25/21