Local Government Mandate Statement Kentucky Legislative Research Commission 2021 Regular Session

Part I: Measure Information

Bill Request #: 91
Bill #: _ HB 581
Document ID #: 1982
Bill Subject/Title: AN ACT relating to open records.
Sponsor: Representative Attica Scott
Unit of Government: X City X County Y Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Police offices; sheriff offices; county attorney offices; 911 dispatch centers
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing X Adds New Eliminates Existing

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

Currently, a recording by a body camera or audio recording device carried by law enforcement is subject to the Kentucky Open Records Act, meaning that it may be disclosed upon Open Records request with certain exceptions. For instance, an agency would not be required to release recordings of a minor, that include the body of a deceased person, that would identify witnesses or confidential informants, or that reveal the location of a domestic violence program, and certain other types of recordings.

HB 581 would change this by *requiring* the public agency to *proactively post* the 911 communication and any follow-up records, including body camera footage and other recordings, to its Web site if the communication relates to law enforcement in an ongoing investigation that may result in prospective law enforcement action or administrative adjudication. All records must be posted on the Web site within three days, except that body camera footage must be posted within 14 days. If the agency cannot make a communication available with these time limits, it must state the reasons on its Web site

and give a date that the information would be available. HB 581 would require posting of body-worn camera footage previously covered by one of the exceptions to Open Records, except that the bill would permit *redaction* of the minor, body of a deceased person, identity of witnesses and confidential informants, location of a domestic violence program, and certain other items.

The fiscal impact of HB 581 on local governments is indeterminate due to unknown factors, but could be moderate to significant. The initial cost depends on whether the local government agency has a Web site with sufficient capability for the posting of video and audio recordings. Additional costs relate to the required online storage of the recordings and the administrative costs of redacting information from them.

According to a study by the city of Spokane, Washington, redaction costs \$0.39 to \$0.62 per minute, depending on salaries for public records specialists. These costs do not include costs relating to redaction technology costs. On average, specialists needed 11 minutes to redact a single individual or object from a video with an audio component, or about \$4.29 per individual or object. On average, specialists needed 10 minutes to redact a single individual or object from a video without an audio component, or about \$3.39 per individual or object. On average, specialists needed 1 minute for audio redaction alone, or about \$0.39. Depending on the quantity of video and audio recordings to be posted on a website, the cost could be minimal to moderate.

Various companies offer redacting software that can range from about \$200 to over \$300 monthly for different redaction capabilities.

While the use of body-worn cameras is generally supported by the Kentucky Sheriffs Association, Kentucky Association of Chiefs of Police, and the Fraternal Order of Police, the hesitancy to implement them on a broader basis relates to cost, especially as related to storage and maintenance of the recordings, which are the most expensive components of a functioning body-worn camera program. Posting footage online will increase the storage and administrative costs.

Many local governments have website functionality, but not all of them would permit posting of videos and audio recordings. Those governments would either need to upgrade existing platforms or switch to a more encompassing website. Website design costs may range from \$3,000 to \$100,000, while monthly storage and maintenance fees may range from \$200 to over \$3,000.

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

Part II, above, relates to the bill as introduced.

Data Source(s): LRC Staff; City of Spokane, Body Camera Video Redaction Cost Study,

<u>December 2019</u>; https://www.computerworld.com/article/2979627/as-police-move-to-adopt-body-cams-storage-costs-set-to-skyrocket.html; https://www.expertmarket.com/web-design/website-maintenance-costs;

https://www.govqa.com/foia-redaction-software/; https://caseguard.com/redaction-pricing/; Kentucky Sheriffs Association; Kentucky Association of Chiefs of Police; Fraternal Order of Police

Preparer: Robert Jenkins **Reviewer:** KHC **Date:** 2/24/21