



Section 2 creates civil procedures outlining requirements for law enforcement to request a warrant to search for and seize firearms. It requires a peace officer to state why the officer believes the respondent is dangerous and in possession of firearms and must include the specifics of the firearm location. Upon issuance and execution of the warrant, the law enforcement officer who served the warrant shall file a document with the court within 48 hours after the warrant was served detailing the time and date which the warrant was served, name and address of the respondent named in the warrant and the quantity and type of firearms seized.

Section 3 creates procedures for law enforcement to seize firearms from persons believed to be dangerous without a warrant. It also has the same 48 hour reporting requirements established in Section 2. If the court finds that probable cause exists to believe that the respondent is dangerous, the court shall order law enforcement having custody of the firearm, to retain it until a hearing can be held.

Sections 4 and 5 create sections to KRS Chapter 237 requiring the court to determine if the Commonwealth has proven that the respondent is dangerous and thus prohibited from owning or possessing firearms. If so determined, the court shall order the law enforcement agency having custody of the firearm to retain it. If the firearm seized from the respondent is owned by another individual, the court may order the law enforcement agency to return the firearm to the rightful owner if they are lawfully allowed to own and possess firearms.

Section 6 creates a new section to KRS Chapter 237 establishing requirements for a petition from a respondent for a finding that he or she is no longer dangerous. If the court determines the respondent is no longer dangerous, the court shall order the law enforcement agency to return the firearm no later than five days from the date of the order.

Sections 7 and 8 creates new sections to KRS Chapter 237 and establishes a protocol for disposition of seized firearms. The respondent or rightful owner of a firearm may petition the court to transfer the firearm to a responsible third party or to sell the firearm and return the proceeds to the respondent or rightful owner. A local law enforcement agency may retain no more than 8% of the sales price to pay for the costs of the sale.

Section 9 requires that local law enforcement agencies be responsible for the storing of firearms until ordered to dispose of them. They must use reasonable care to ensure the firearm is not lost or damaged. Law enforcement is also prohibited from marking the firearm for identification or other purposes. Local law enforcement is responsible for any damage to or loss of a firearm.

Section 12 creates a new Class A misdemeanor and a Class D felony. A person who has been found to be dangerous by a District Court that knowingly or intentionally rents, purchases, receives transfer of, owns or possess a firearm is guilty of a Class A misdemeanor. Any person who knowingly or intentionally rents, sells, transfers, or offers for sale a firearm to another person when they know that person was found to be dangerous

by a court, is guilty of a Class D felony. An estimate for these new offenses is not determinable.

**The overall fiscal impact of this legislation is indeterminable. The creation of new duties related to storing and caring for impounded firearms will impact local law enforcement agencies, especially sheriffs' departments potentially in a moderate to high manner depending on the increase in numbers of firearms to be stored and the availability of storage space. The impact of the new reporting duties on local law enforcement is expected to be mostly procedural and paper oriented and thus minimal.**

The Kentucky Sheriffs' Association (KSA) and the Kentucky Fraternal Order of Police (FOP) believes the storage requirements of this bill will create a significant fiscal impact to local sheriff offices as well as other local law enforcement especially smaller police departments. The anticipated impact is a result of the lack of space to store firearms, increased training for personnel, and supplies or equipment necessary to maintain the stored firearms. They expect this bill will increase the overall number of firearms that will need to be stored for an undefinable period of time. KSA states that impounded firearms must be treated like evidence. This means that any additional storage space must be secure, have controlled and limited access, and the space must be environmentally controlled to prevent damage from heat and humidity, similar to an evidence room. FOP states that with most small sheriff offices and police departments, space is always an issue, especially for evidence rooms. Due to the unknown period of time firearms may be stored, there may be a need to periodically inspect and maintain firearms to keep them in the same condition as when first impounded.

**The impact on local jails is not determinable, but is not expected to be substantial.**

**Class A misdemeanors:**

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.

**Class D and Class C felons:**

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 average cost to incarcerate of \$37.35, which includes the \$31.34 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 Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

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

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

**Data Source(s):** KY Sheriffs's Association, KY Fraternal Order of Police, LRC Staff,  
Department of Corrections

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