

officer is exonerated by a court within the revocation period. If the incident resulted in a civilian death, the certification shall be revoked permanently and may only be overturned if the officer is exonerated by a court.

Local law enforcement agencies are not likely to retain a peace officer who has lost their certification. **The fiscal impact of replacing an officer whose certification has been revoked, is not likely to be significant.** These agencies typically deal with staff turnover, including peace officers in the normal course of business. Law enforcement agencies still incur expenses in filling vacant peace officer positions. In cases where hiring an already trained and certified peace officer is not possible, local agencies will have costs associated with recruiting and training. According to the Kentucky Department of Criminal Justice Training (DCJT), the cost for pre-employment screening of prospective law enforcement officers ranges between \$400 and \$500. Reimbursement is sought from the requesting agency of \$181 with the balance covered by Kentucky Law Enforcement Council (KLEC). The cost of law enforcement basic training is borne entirely by DCJT, whose primary funding source is the KLEFP fund. Kentucky law enforcement agencies do not pay for any costs of basic training, however, the hiring agencies pay salary to their cadets throughout their training. The Law Enforcement Basic Training Academy takes 20 weeks to complete the 824.5-hour curriculum. During this time, local agencies pay the cadets salary. Additionally, it is likely the agency will also have increased salary costs due to overtime for existing officers to cover the vacancies.

Section 2 Amends KRS 61.168 to require that on or before January 1, 2022, the Kentucky Department of Libraries and Archives shall prepare a records retention schedule governing the retention of body-worn camera recordings for law enforcement agencies.

It also amends KRS Chapter 61.168 to require law enforcement to release all unedited video and audio recordings from body-worn cameras or otherwise collected within 21 days of receipt of a formal complaint of misconduct. If release of the recordings would substantially jeopardize or interfere with an ongoing investigation, recordings must be released no later than 45 days from the date of the complaint. The prosecuting attorney must issue a written statement justifying the delay in releasing the recordings. This section also provides that if the incident resulted in a death, the victim's personal representative will be notified of their right to receive and review recordings at least 72 hours prior to public release of the recordings. Lastly, it allows a witness, victim, criminal defendant, or other person with a privacy interest, to waive in writing, their individual privacy interest that may be implicated by public release of a recording. The law enforcement agency may not redact or withhold release to protect that privacy interest.

Section 3 amends KRS 61.169 to conform.

Section 4 amends KRS 15.440 to include the requirement for law enforcement agencies to have and enforce policies requiring the use of body-worn cameras in order to be eligible to share in the distribution of funds from the Kentucky Law Enforcement Foundation Program (KLEFP) fund. It requires that law enforcement agencies possess by July 1, 2023, a written policy and procedures manual related to body-worn cameras. It requires that the agency provide body-worn cameras for each peace officer who interacts with members of the public. It also includes a requirement that a peace officer must wear and activate a body-worn camera when responding to a call for service or during any interaction with the public initiated by the peace officer, for the purpose of enforcing the law or investigating possible violations of the law.

The potential loss of KLEFP funds on local government is indeterminable. It is likely the loss of these funds would be moderate to substantial, based on the budget and size of the department. Local law enforcement agencies who fail to develop, implement, and comply, with a written policy and procedures manual related to mandatory drug and alcohol testing of police officers after the discharge of a firearm or a deadly incident, will not be eligible to receive KLEFP funding.

The KLEFP fund was created by the General Assembly to support law enforcement by attracting and retaining competent, highly-qualified and experienced officers. According to the FOP, KLEFP funds ensures that officers are regularly trained and is recognized for its law enforcement training practices. KLEFP also provides an annual supplement to qualified peace officers in the amount of \$4,000. Each unit of local government receives an amount equal to the required employer's contribution on the supplement to the retirement plan and duty category to which the officer belongs. Additionally, each agency receives an administrative expense reimbursement equal to 7.65 percent of the total annual supplement received for each qualified peace officer, subject to the fund having sufficient funds. The average amount an agency receives for each officer receiving the supplement is \$333 per year.

Loss of the annual supplement may result in higher vacancies as qualified peace officers leave for other agencies. This would result in higher personnel costs related to recruiting and training of new officers.

According to KLEC, there are 369 law enforcement agencies that participate in KLEFP fund distribution which provides supplements to 7,715 qualified peace officers. .

Section 5 amends KRS 15.470 to make the purchase of body-worn cameras eligible under the Kentucky Law Enforcement Foundation Program (KLEFP).

Section 6 amends KRS 42.726 to make the Commonwealth Office of Technology (COT) responsible for assisting any state or local law enforcement agency in facilitating a body-worn camera program.

The implementation costs of a body-worn camera program range from about \$30,000 to \$41,000 per year. Hardware and software costs, staff time and records maintenance and retention are the common issues raised by local law enforcement, especially the smaller departments.

According to the Kentucky League of Cities (KLC), the average cost to a local police department to operate a body-worn camera program was \$41,000 a year. The Kentucky Sheriffs' Association (KSA), the Kentucky Fraternal Order of Police (FOP), and the Kentucky Association of Chiefs of Police (KACP) also report similar costs and each of these agencies support the implementation and use of a body-worn camera program but acknowledge that smaller agencies struggle with costs and availability of staff to manage the program.

A survey conducted by KLC on body-worn cameras during the summer of 2020, indicated that 95 percent of city police departments with 50 or more full-time officers, operate a body-worn camera program and requires their usage. Sixty-five percent of city police departments with 10-49 full-time officers and 39 percent of police departments with fewer than 10 full-time

officers required body-worn cameras. Cities without a body-worn camera program cited cost, record retention and staff time as their main reasons for not implementing a program.

The FOP responded using the City of Independence's actual costs. The city entered into a five-year agreement for cameras, equipment, licenses, storage and software for an approximate cost of \$174,000.

Another respondent for FOP was the Clark County Sheriff, who indicated they were currently implementing a body-worn camera program. Their camera costs were approximately \$650 each and the annual maintenance, storage, retrieval and other operating costs were approximately \$31,000. They were able to partner with the local police department who currently operate a body-worn camera program, to manage the sheriff's program and be the custodians of the videos at no cost to the sheriff's department.

In addition to the hard costs mentioned above, there are related costs associated with staff time, training, and potentially additional staffing needs. KLC reports that city police departments average 30 open records requests each year and that each request averages five hours to compile.

The use of body-worn cameras is supported by KSA, KACP and FOP. The only hesitancy to implementing a program is cost, especially costs related to storage and maintenance of the recordings as they have indicated this is most expensive component of a functioning body-worn camera program.

The overall fiscal impact to local law enforcement is not determinable but will likely be affected by the size and budget of each agency. Expected impact is likely to range from moderate to substantial.

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

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

Data Source(s): Fraternal Order of Police, KY Association of Chiefs of Police, KY Sheriffs' Association, Kentucky League of Cities, LRC Staff

Preparer: Mark Offerman **Reviewer:** KHC **Date:** 2/23/21