

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2021 Regular Session**

Part I: Measure Information

Bill Request #: 107

Bill #: SB 4 GA

Document ID #: 5913

Bill Subject/Title: AN ACT relating to warrants authorizing entry without notice.

Sponsor: Senator Robert Stivers II

Unit of Government: City County Urban-County
 Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Local Law Enforcement, Local Government

Requirement: Mandatory Optional

Effect on Powers & Duties: Modifies Existing Adds New Eliminates Existing

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

Sections 1, 2 and 3 of this legislation creates new sections of KRS Chapter 455 governing warrants authorizing entry without notice. They create procedures and requirements for issuance of both search warrants and arrest warrants authorizing entry without notice.

No notice warrants can only be issued:

- Where a court finds that by clear and convincing evidence that if convicted, the alleged crime would qualify a person as a violent offender and there are substantial and imminent risks to the health and safety of any person or result in the loss or destruction of evidence sought;
- When the law enforcement officer seeking the warrant has approval from their supervising officer or highest ranking officer in the agency;
- After consultation with the Commonwealth attorney or the county attorney for the jurisdiction for which the warrant is sought;
- If the law enforcement officer seeking the warrant discloses any other attempt to obtain a warrant authorizing entry without notice for the same premises or for the arrest of the same individual; and

- If it limits the service of these warrants only between the hours of 6 a.m. and 10 p.m. except in exigent circumstances.

Judges are required to review applications for warrants authorizing entry without notice carefully and impartially.

The legislation requires that service of warrants authorizing entry without notice be executed by members of a special weapons and tactics team (SWAT), a special response team, or another established team or unit trained and tasked with resolving high-risk situations and incidents who have received appropriate training in these actions. It further requires that the law enforcement officers executing the warrant be equipped with body-worn cameras and shall record the entirety of the execution of the warrant.

KRS 523.020 is amended to make clear that an officer's false statement in an application for a warrant authorizing entry without notice, constitutes perjury in the first degree, which is a Class D felony. The costs associated with Class D felony incarcerations are described below.

A new section of Kentucky Rules of Evidence 401 to 412 is created making any evidence collected as the result of a warrant authorizing entry without notice, which did not comply with statutes, or which was obtained through perjury or false statements, inadmissible in any civil or criminal proceeding.

The overall fiscal impact on local law enforcement agencies is not determinable, but expected to be moderate to substantial, depending on the department size and whether or not local law enforcement is currently operating a body-worn camera program.

The legislation will require training for staff and peace officers on new procedures and requirements. Additional specialized training may be required for SWAT or special response teams on execution of no notice warrants. Expected costs would be related to staff time and materials. Further, there will be costs associated with the use and implementation of body-worn cameras.

The overall implementation costs of a body-worn camera program range from approximately \$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% 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% 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.

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.

Class D 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 GA version. The GA version is the same as the bill as introduced. No amendments or substitutes were adopted when the bill passed its chamber of origin.

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

Preparer: Mark Offerman **Reviewer:** KHC **Date:** 2/26/21