

subdivision requires or assists with the enforcement of any federal statute, order, rule, or regulation not provided for in State law.

Citizens are permitted to file complaints with the Attorney General for violations of the prohibition if the person offers evidence to support an allegation. The Attorney General is granted authority to file a civil action in Circuit Court to enforce the prohibition. This bill also provides that any federal officer or agent who arrests, or attempts to arrest any state or local government official for complying with this legislation or who attempts to enforce any federal statute, order rule, or regulation described by this legislation, shall be subject to arrest by state or local law enforcement.

This Act may be cited as the Kentucky 2nd Amendment Preservation Act. It declares that an emergency exists and that this Act takes effect upon its passage and approval by the Governor or upon it's otherwise becoming law.

The fiscal impact of this bill on local law enforcement is indeterminable. Because this legislation can go into effect immediately after becoming law, the impact to local government will begin immediately due to the emergency clause in the legislation.

If a government official violates the prohibition established by this legislation, the number of convictions is likely to be limited with minimal impact on local jails. A person may be incarcerated for conviction of a Class B or Class A misdemeanor. A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 74 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 \$35.43 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 \$35.43 per day.

Peace officers convicted of violating this are subject to termination and thus creating vacancies. The incidence of this occurring is low. However, there is a cost to fill vacant positions. Filling vacancies is a normal practice for local law enforcement agencies. In cases where hiring an already trained and certified peace officer is not possible, local agencies will have costs associated with recruitment and training.

According to the Kentucky Department of Criminal Justice Training (DOCJT), 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. The cost of law enforcement basic training is borne entirely by DOCJT, whose primary funding source is Kentucky Law Enforcement Foundation Program Fund. Law enforcement agencies do not pay for any costs of basic training, however, they pay the cadet's salary throughout their training. The Law Enforcement Basic Training Academy takes 20 weeks to complete the 824.5-hour curriculum. It is likely the agency will have increased salary costs due to overtime for existing officers to cover vacancies until the newly trained peace officer can report for duty.

Vacancies in local elected offices are filled by appointment until the successor is elected as provided in Section 152 of the Constitution, and qualified. A vacancy in the office of sheriff, coroner, surveyor, county clerk, county attorney, jailer, or constable, shall be filled by the county judge/executive, or by the mayor in a consolidated local government. When a vacancy occurs in the office of county judge/executive, the governor fills the vacancy.

KRS 83A.040 governs the filling of vacancies in elected city offices by appointment. If a vacancy occurs in the office of mayor, the legislative body must fill the vacancy by appointment within 30 days. Likewise, if a vacancy occurs in a legislative body office, the remaining members are required to fill the vacancy within 30 days. If the legislative body fails to fill the vacancy within the 30-day timeframe, the authority and power to fill the vacancy falls to the governor.

Vacancies of an elected public servant should have no impact on local government other than completing administrative duties.

Most local law enforcement agencies receive some amount of federal funding for highway safety grants, federal drug task force participation grants etc. Agencies may stop receiving or receive less federal and state funding as a result of this legislation, if the interpretation of participating with federal agencies is determined to be in violation of this Act.

Local governments may be subject to litigation for refusing to enforce or help enforce federal law or to respond to a citizens complaint in court. Staff time, legal expenses and other costs are not determinable. The Kentucky League of Cities has stated that most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Currently (FY 2020), the average hourly rate was \$107.

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

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

Data Source(s): KY Department of Corrections, Kentucky Department of Criminal Justice Training , IB 114 Duties of Elected County Officials 2021, KY Fraternal Order of Police, Kentucky League of Cities, LRC Staff

Preparer: MJO (wfb) **Reviewer:** KHC **Date:** 1/21/22