Local Government Mandate Statement Kentucky Legislative Research Commission 2022 Regular Session

Part I: Measure Information

Bill Request #: 1955
Bill #: SB 278
Document ID #: <u>5480</u>
Bill Subject/Title: AN ACT relating to crisis aversion and rights retention orders.
Sponsor: Senator Morgan McGarvey
Unit of Government: X City X County M M M M M
XCharter CountyXConsolidated LocalXUnified LocalXGovernment
Office(s) Impacted: Local law enforcement, jails, and courts
Requirement: <u>X</u> 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

SB 278 creates new sections of KRS Chapter 237 to allow law enforcement officers to petition a District Court for a crisis aversion and rights retention order. If the court finds there is a reasonable belief that the respondent poses an immediate and present danger of causing serious physical injury to themselves or others by purchasing, possessing, receiving, or having in his or her custody or control a firearm or ammunition, the court shall issue a temporary crisis aversion and rights retention order, set a date for an evidentiary hearing within 14 days, and issue a summons to the parties. The crisis aversion and rights retention order shall prohibit the respondent from purchasing, possessing, receiving, or having in his or her custody or control a firearm, or attempting to purchase or receive a firearm until a hearing on issuing a crisis aversion and rights retention order can be held. The Act establishes procedures for the filing, review, hearing, and possible extension of the petition.

SB 278 prescribes issuance and service procedures of a resulting protective order and establishes procedures for the surrender, storage, and return of firearms and ammunition.

SB 278 provides that a person who files a petition for a crisis aversion and rights retention order, knowing the information in the petition to be materially false or with an intent to harass the respondent, is guilty of a Class A misdemeanor. A person who owns, purchases, possesses, receives, or has in his or her custody or control a firearm or ammunition with knowledge that he or she is prohibited from doing so by an crisis aversion and rights retention order is guilty of a Class A misdemeanor. If a respondent subject to a crisis aversion and rights retention order has transferred a firearm to a responsible party, and the responsible party intentionally or wantonly allows the respondent access to any firearm, the responsible party is guilty of a Class A misdemeanor.

The fiscal impact of SB 278 on local law enforcement and jails is indeterminate but could be minimal to moderate. There will be a need for additional training and time associated with petitioning of courts, service of process requirements; the confiscation, and the maintenance of confiscated firearms. The creation of new duties related to storing and caring for impounded firearms could moderately impact local law enforcement agencies depending on the increase in numbers of firearms to be stored and the availability of storage space.

The Kentucky Sheriffs' Association (KSA) and the Kentucky Fraternal Order of Police (FOP) believes the storage requirements will create a significant fiscal impact on 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 issues, especially for evidence rooms.

Due to the unknown period 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. If agencies are challenged with space issues, however, they may pursue help from adjacent agencies through some form of interorganizational cooperation or creating a shared service.

SB 278 also creates new Class A misdemeanor crimes.

A person convicted of a Class A misdemeanor may be incarcerated for up to 12 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.

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

Part II, above, pertains to SB 278 as introduced.

Data Source(s):Kentucky Sheriffs Association; Kentucky Association of Chiefs of Police;
Kentucky County Attorney Association; Kentucky Fraternal Order of
Police; Kentucky Department of Corrections; LRC Staff

Preparer:K. Sallee (mjo)Reviewer:KHCDate:3/9/22