

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2024 Regular Session**

Part I: Measure Information

Bill Request #: 359

Bill #: HB 362

Document ID #: 429

Bill Title: AN ACT relating to leave from employment.

Sponsor: Representative Lindsey Burke

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

Office(s) Impacted: All local government offices with employees

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**

Current law at KRS 337.415 prohibits an employer discharging an employee for taking time off for an ordered court appearance so long as the employee gives prior notice. Consequences to the employer for doing so include reemploying the employee with back pay, court costs and attorney fees.

HB 362 **Section 1** would amend KRS 337.415 to also prohibit an employer discharging, retaliating, or discriminating against an employee who is a victim of a crime because the employee takes leave from work to attend court or other proceedings associated with the prosecution of the crime. **Section 1** would require that an employee give reasonable prior notice to an employer by providing a copy of the notice from the court or agency responsible for scheduling the hearing, conference, or meeting. The employer may require an employee to use accrued leave time. If the employee has no accrued leave time, then it is within the employer's discretion whether or not to pay the employee for the time taken from work.

An employer would be required to maintain confidentiality of any verbal or written communication from an employee relative to the employee’s request for leave under KRS 337.415.

Section 2 would impose a civil penalty of \$100 - \$1,000 on an employer for knowingly and willfully taking adverse action against an employee for taking leave under the bill, or knowingly and willfully failing to maintain confidentiality. Each day the employer denies leave to an employee in violation of the Act would constitute a separate offense.

The fiscal impact of HB 362 on local government employers by expanding the prohibition in KRS 337.415 to include discharging an employee crime victim for taking leave from work to attend court or other legal proceedings related to prosecution of the crime would be minimal.

It is not expected that many local government employers would knowingly and willfully violate HB 362 and so incur a civil penalty. The fiscal impact otherwise depends on the nature and duration of court or other proceedings associated with prosecution of the crime, and the amount of accrued leave time the employee has. An employer could incur additional costs if an employer must hire a temporary replacement for the employee, or must pay for overtime earned by co-workers covering the duties of the employee on crime victim’s leave. Most research and anecdotal evidence indicates that local government employers do not typically hire temporary workers when employees are on leave, but rather assign their work to other employees or otherwise “make do” while temporarily less than fully staffed.

The new requirement may require local governments to amend their human resources manuals or, perhaps, local ordinances. Local governments that must amend ordinances to adopt the requirements of HB 362 will incur costs associated with the drafting, publication, indexing and recording of adopted ordinances. According to Kentucky League of Cities, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting an ordinance is influenced by its complexity and the amount of research that is necessary. In 2023 the average hourly rate paid by a city to its attorney was \$117 to \$128. Rates for posting legal notices in a newspaper vary greatly depending on the length of the publication, the number of times it needs to be published and the newspaper in which the publication is placed. Therefore, these costs are unknown.

Data Source(s): Kentucky League of Cities; LRC staff

Preparer: Mary Stephens (BW) **Reviewer:** KHC **Date:** 2/7/24