

- to assess property for ad valorem taxation, with the express, prior, written permission of the owner, tenant, occupant, invitee, or licensee of the privately owned real property;
- to capture images for an electric, water, or natural gas utility;
- for aerial mapping; or
- by an insurance company or a person acting on behalf of an insurance company for purposes of underwriting an insurance risk or investigating damage to insured property.

Section 3 of HB 45 GA allows owners, tenants, occupants, invitees, or licensees of real property to initiate a civil court action against local governments that use unmanned aircraft to gather evidence or information that is prohibited by HB 45.

Section 9 of HB 45 GA establishes dissemination of a deep fake as a new crime and makes it a Class D felony. Dissemination of a deep fake is defined as disclosing or threatening to disclose a deep fake that has not been previously disclosed to the public:

- with the intent to harass, annoy, threaten, alarm, or cause substantial harm to the finances or reputation of the depicted individual;
- with actual knowledge or reckless disregard for whether the disclosure or threatened disclosure will cause physical, emotional, reputational, or economic harm to the depicted individual; or
- whose creation, reproduction, or distribution could be reasonably expected to affect the conduct of any administrative, legislative, or judicial proceeding, including the administration or outcome of an election.

Section 10 of HB 45 GA amends the definition of unlawful use of a tracking device to include:

- installing or placing a tracking device, or causing a tracking device to be installed or placed, on another person or the property of another person without the other person's knowledge or consent; and
- tracking the location of another person without the other person's knowledge or consent.

Unlawful use of a tracking device is a Class A misdemeanor.

The fiscal impact of HB 45 GA is indeterminable but likely negative. HB 45 GA will require adoption of new policies and procedures and conducting additional training. HB 45 GA also creates new offenses which are Class D felonies and Class A misdemeanors.

There also exists the potential for agency insurance rates to be affected. In the event a law enforcement agency uses a drone in an illegal manner, there exists the potential for large civil claims to be paid by the local government. The Kentucky League of Cities and the Kentucky Association of Counties operate pooled insurance programs through which cities and counties may purchase insurance. Any claim paid likely would increase the premiums paid by the organization as part of their regular loss-ratio review. If an exceptionally large insurance claim was paid, the pool may force premiums for other

organizations to increase or potentially result in an assessment of all participating members.

Class A misdemeanors:

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 \$44.97 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 \$44.97 per day.

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 74 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 \$44.97, which includes the \$35.34 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 \$35.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

Data Source(s): LRC Staff, Department of Corrections.

Preparer: Bart Liguori (RB) **Reviewer:** KHC **Date:** 3/4/24