



probable cause to believe that the respondent presents an immediate and present danger of causing serious physical injury to self or others, the court shall dismiss the petition without prejudice.

Upon issuance of a temporary crisis aversion and rights retention order, the court shall have an evidentiary hearing within six (6 days) from the date of the temporary order (excluding holidays and weekends) to determine if a crisis aversion and rights retention order should be entered and issue a summons to the parties to appear at the hearing.

A temporary crisis aversion and rights retention order shall

- order the surrender of the respondent's firearms until the evidentiary hearing is held to determine whether to issue a crisis aversion and rights retention order;
- order that the respondent shall not purchase, possess, receive or have in his or her custody or control a firearm or attempt to purchase or receive a firearm while the temporary order is in effect;
- contain the finding of the specific and articulated grounds supporting the issuance of the temporary order; and
- include information related to the hearing for determining whether a crisis aversion and rights retention order will be entered.

A summons and the temporary crisis aversion and rights retention order issued by the court shall be personally served on the respondent by a law enforcement officer between the hours of 6 AM and 10 PM except in exigent circumstances. Any law enforcement officers serving the summons and temporary crisis aversion and rights retention order shall be equipped with body-worn cameras or equipped with other audio-visual recording devices issued by the government and shall record the entirety of the service of the summons and the collection of any firearms with a recording device.

Upon service of the summons and temporary order, the law enforcement officer shall take custody of all firearms in the possession, custody, or control of the respondent. The law enforcement officer shall not enter the home or interior premises unless specifically requested to by the respondent for the sole purpose of collecting the firearms.

If a respondent fails to surrender any and all firearms in his or her possession, the law enforcement officer shall advise the respondent that the refusal may constitute grounds for a finding of contempt of court or may request the court to issue a search warrant for the limited purpose of taking control of all the respondent's firearms.

Following a hearing held for a crisis aversion and rights retention order, if a court orders a crisis aversion and rights retention order, the respondent is prohibited from purchasing, possessing, receiving, or having in his or her custody or control a firearm from the date the order is issued until the order expires. The order also requires that all firearms in the possession, custody, or control of the respondent be held by a law enforcement agency.

If the hearing finds that the respondent does not require a crisis aversion and rights retention order, the court shall dismiss the petition and order the return of the

respondent's firearms. Within twenty-four (24) hours of the court's decision, the court shall forward a copy of the decision to the appropriate agencies.

Upon issuance of a crisis aversion and rights retention order, the court shall order the respondent to surrender to a law enforcement agency all firearms in the respondent's custody, control, or possession; and notify adults living in the same household as the respondent that the respondent is prohibited from having firearms in his or her custody, control, or possession while the order is in effect. After the order is served, the respondent shall surrender all firearms to the control of a law enforcement officer. The law enforcement officer taking control of a firearm pursuant to a crisis aversion and rights retention order shall issue a receipt identifying all firearms and provide a copy of the receipt to the respondent. After firearms have been surrendered to a law enforcement agency pursuant to a crisis aversion and rights retention order, the rightful owner of the firearm may petition the issuing court to order the law enforcement agency to transfer the firearm to:

- a responsible party;
- an individual who possesses a valid firearms license for storage or an eventual lawful sale of the firearm, whose terms are mutually agreed to by the lawful owner and the licensee; or
- the Department of Kentucky State Police.

A law enforcement agency storing a firearm surrendered by a respondent to a crisis aversion and rights retention order shall use reasonable care to ensure that the firearm is not lost or damaged and is prohibited from marking the firearm for identification or other purposes. Law enforcement agencies are liable for any damage to, or loss of, a firearm obtained from a respondent subject to a crisis aversion and rights retention order if there was negligence or a failure to comply with the requirements of the bill on the part of the law enforcement agency.

When a crisis aversion and rights retention order is terminated, expires, or dismissed, the law enforcement agency holding any firearms in association with the crisis aversion and rights retention order shall notify the respondent that he or she may request the return of the firearm. Before returning any surrendered firearms, the law enforcement agency shall confirm that the respondent is currently eligible to possess firearms. Any firearm which was surrendered by a respondent and remains unclaimed or has not been transferred by the lawful owner one (1) year after any crisis aversion and rights retention order has expired or that remains unclaimed by the lawful owner one (1) year following the dismissal of any petition to the crisis aversion and rights retention order shall be disposed of in accordance with KRS 16.220.

A court that has probable cause to believe a respondent to a crisis aversion and rights retention order possesses or has in his or her custody or control a firearm that he or she has failed to surrender or has purchased a firearm shall order the seizure of any firearms in the respondent's possession, control, or custody. Firearms seized from a respondent to a crisis aversion and rights retention order shall be disposed of in accordance with KRS 500.090.

The commonwealth shall recognize and enforce orders from other states that are substantially similar to crisis aversion and rights retention orders and meet certain criteria.

A person who knowingly provides false information upon which a law enforcement officer bases a petition for any crisis aversion and rights retention order, with an intent to harass the respondent shall be guilty of a Class A misdemeanor.

A person who knowingly purchases, receives, or has in his or her custody or control a firearm with the knowledge that he or she is prohibited from doing so by a crisis aversion and rights retention order is guilty of a Class D felony.

If a respondent who is 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 with knowledge that the respondent is restricted from possessing firearms due to a crisis aversion and rights retention order, the responsible party is guilty of a Class A misdemeanor. If the firearm is used by the respondent in the commission of a crime, the responsible party is guilty of a Class D felony. If the responsible party knows that the respondent is committing or intends to commit a crime and the respondent uses the firearm to commit a Class A felony, the respondent is guilty of a Class B felony. If the responsible party knows that the respondent is committing or intends to commit a crime and the respondent uses the firearm to commit a Class B felony, the respondent is guilty of a Class C felony.

There are no criminal or civil liabilities on any person who chooses not to seek a crisis aversion and rights retention order.

**The fiscal impact of SB 13 on local governments is indeterminable but likely negative.** The bill creates additional duties for local courts and creates new classes of misdemeanants and felons. There is no history of convictions which could be used to reliably project potential costs to local jails. Crisis aversion and rights retention orders do not currently exist and may require additional work for county attorneys or local courts. Law enforcement officers and court employees will need to be trained on the new rules and procedures, but this will likely not result in additional required expenditures as it can be integrated into existing training programs and procedures.

Firearm forfeiture and disposal may have a small, but negative impact to local law enforcement agencies, especially sheriffs' departments depending on the increase in the number of firearms confiscated, when the defendant is in violation of an order, and stored and the availability of storage space.

The Kentucky Sheriffs' Association (KSA) and the Kentucky Fraternal Order of Police (FOP) believes the storage requirements may create an impact to local sheriff offices as well as other local law enforcement, especially smaller police departments. The anticipated impact is a result of the lack of space to store firearms and supplies or

equipment necessary to maintain the stored firearms. 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 issue, especially for evidence rooms.

The cost of housing inmates in local jails depends on the level of offense. 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.

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.

When a court denies bail to a Class C 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. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$35.34 per day to house these Class C felons. The per diem may be less than, equal to, or greater than the actual housing cost.

**Data Source(s):** LRC Staff, Department of Corrections; Kentucky Sheriff's Association; Kentucky Fraternal Order of Police

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