

Governor Andy Beshear has taken extraordinary actions to protect public health and safety in an effort to stop the spread of the novel coronavirus, COVID-19. Through a series of executive and administrative orders issued pursuant to KRS 39A, the governor has closed public-facing businesses and restricted public interaction in the face of an unprecedented public health emergency. City officials are now receiving reports of violations of the governor's orders but do not have clear guidance on the process for enforcement.

The Kentucky League of Cities (KLC) advises cities to report violations of Governor Beshear's executive and administrative orders to local health departments for enforcement. In each executive and administrative order, Governor Beshear places enforcement authority with the Cabinet for Health and Family Services, Department for Public Health and the local health departments. This is consistent with the state statutory scheme for stopping the spread of infectious and contagious diseases in KRS Chapter 214.

Local health departments are first attempting to gain compliance from alleged violators. Failing this, they are likely to request that local law enforcement go to the business or individual violator and request compliance. Finally, if the violator continues to refuse to comply, the local health department will contact Frankfort and, in some instances, seek a court order that directs a specific law enforcement agency to take enforcement action. This practice protects our local law enforcement from additional exposure to infected persons by giving violators several opportunities to comply before officers are forced to engage someone. Additionally, enforcement action pursuant to a court order is always an extra measure of legal protection against liability claims against officers.

Regardless of the call received, officers must rely on their training, experience, and discretion in analyzing each encounter to determine what response is necessary. Each scene to which an officer is called will present different, fluid challenges in what courts recognize is an ever-uncertain environment. For instance, a call reporting an improper gathering may turn out to be criminal trespass based upon an officer's observations at the scene. KLC strongly encourages our city officials to work closely with your local prosecutors for guidance on enforcement approaches during this unprecedented time.