

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 166 Introduced

BR #: 184

DOC ID#: BR018400.100 - 184 - XXXX

**BILL SPONSOR(S):** Rep. J. Sims Jr, G. Brown Jr, T. Burch, M. Cantrell, J. Donohue, K. Flood, A. Gentry, J. Gooch Jr., D. Graham, J. Greer, C. Harris, A. Hatton, T. Herald, J. Jenkins, M. Marzian, R. Nelson, R. Palumbo, R. Rand, A. Scott, S. Wells, S. Westrom

**AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to medical cannabis and making an appropriation therefor.

**SUMMARY OF LEGISLATION:** Create new sections of KRS Chapter 218A to define terms; restrict medical cannabis to certain patients with qualifying debilitating conditions; establish requirements for cultivation, production, processing, distribution, and sale in compassion centers; establish requirements for patients, visiting patients, and caregivers; establish professional protections for practitioners; establish protections for cardholders; establish certain protections for cardholders; establish responsibilities for cardholders; allow restrictions on possession, possession while operating a motor vehicle, and smoking; clarify that use of medical cannabis by a qualifying patient is to be treated the same as use of prescribed pharmaceutical medications; establish additional protections for medical use; clarify that nothing in the bill requires government programs or private insurers to reimburse for the costs of use or prohibits an employer from disciplining an employee for workplace impairment; establish a medical purpose defense for some uses of medical cannabis; require establishment of a Cannabis Enforcement Program by the Department of Alcoholic Beverage Control to enforce the department's duties; establish a process for the department to increase the list of debilitating medical conditions; require testing and quality regulation of the production, cultivation, processing, and sale of medical cannabis; establish requirements for licenses, facilities security, transportation, training, packaging, labeling, health and safety; establish rules on advertising, additives, pesticides, single-serving limits for THC content, and requiring random sample testing and safe processing; require licensure and issuance of cards for all medical cannabis businesses; establish certain licensure and application fees; require department to issue registry cards to patients submitting the required information; establish procedures for denying an application; establish technical requirements for cards and for cardholders; establish cardholder fees and notification requirements; require 60% of the boards of medical cannabis businesses to be composed of individuals with 3 years of continuous Kentucky residence; establish 3 tiers of medical cannabis business regulation by gross receipts; establish requirements for applying producers, cultivators, distributors, and processors; establish requirements for cultivator businesses, including addressing expansion of crops to meet market needs; establish protections and responsibilities for compassion centers, cultivators, and safety compliance facilities; establish procedures for the department to suspend or revoke registration and licensure; establish rules for local sales, including a requirement that a local legislative body take action to approve medical cannabis businesses; establish a process for local ordinances and ballot initiatives; establish requirements for medical cannabis business agents; prohibit location of a medical cannabis business within a certain distance from a school; establish a requirement that compassion centers obtain usable medical cannabis from only certain licensed entities; establish recordkeeping requirements; protect certain records and information from disclosure via the Kentucky Open Records Act; require establishment of a verification system for use by law enforcement personnel and medical cannabis business agents; establish a 19-member oversight committee to advise the department; require an annual report to be sent to the Legislative Research Commission; establish authority for the department to promulgate regulations; establish a method by which any citizen may commence an action with the Franklin Circuit Court to compel the department to perform its duties; establish an alternative method to create a valid registry identification card if the department fails to act; clarify that the department's duties are administrative in nature; establish excise taxes of 10% for a cultivator, processor, or producer for selling directly to a compassion center; establish excise taxes of 5% for a cultivator, processor, or producer for selling to a distributor; establish excise taxes of 5% for a distributor selling to a compassion center; direct that 80% of revenues go to the administration of the medical cannabis trust fund for the operation of the Cannabis Enforcement Program; direct that 20% of revenues go to the local medical cannabis trust fund for enforcement of medical cannabis laws, medical cannabis licensing, hiring of drug recognition experts, local evidence-based drug rehabilitation projects, or educational activities within local jails; establish the medical cannabis trust fund and the local cannabis trust fund; APPROPRIATION.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Creates new crime(s)                   | <input type="checkbox"/> Repeals existing crime(s)               |
| <input type="checkbox"/> Increases penalty for existing crime(s)           | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                           | <input type="checkbox"/> Decreases incarceration                 |
| <input type="checkbox"/> Reduces inmate/offender services                  | <input type="checkbox"/> Increases inmate/offender services      |
| <input type="checkbox"/> Increases staff time or positions                 | <input type="checkbox"/> Reduces staff time or positions         |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) |  |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____   |  |

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$70.12. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.45 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

**Projected Impact:**       NONE                       MODERATE (< \$1 million)       SIGNIFICANT (> \$1 million)

The legislation establishes regulations for medical cannabis. The legislation prescribes certain disqualifiers for felony convictions for individuals involved in the medical cannabis business regulation.

The impact to the Department of Corrections from this legislation is expected to be minimal. Legalization of medical marijuana may potentially reduce the number of marijuana related convictions and corresponding incarceration and supervision surrounding these offenses.

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

**Projected Impact:**       NONE                       MODERATE (< \$1 million)       SIGNIFICANT (> \$1 million)

Medical marijuana as established in this legislation may reduce the number misdemeanor convictions for Possession of Marijuana. The number cannot be determined because it is unknown how many people would qualify for a medical marijuana license as authorized under this bill. Any reduction in the number of convictions or incarceration stemming from marijuana offenses would be a cost savings to the counties and provide some level of relief from jail overcrowding.

The legislation creates a misdemeanor offense for breach of confidentiality of information obtained pursuant to the proposed act, punishable by one hundred eighty (180) days in jail and a one thousand dollar (\$1,000) fine.

As the act is very specific in subject, confidentiality, and access to information, the suspected impact to local corrections under this legislation would be minimal.

A Class A misdemeanor is 90 days to 1 year in jail

10 Class A misdemeanants: \$28,206 to \$114,391

1 Class A misdemeanant: \$2,821 to \$11,439

100 Class A misdemeanants: \$282,060 to \$1,143,910

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections     Dept. of Kentucky State Police     Administrative Office of the Courts     Parole Board     Other

**NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.**

**APPROVED BY:**

  
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Commissioner, Kentucky Department of Corrections

3/5/2018  
Date