

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 41 Prefiled

BR #: 149

DOC ID#: BR014900.100 - 149 - XXXX

**BILL SPONSOR(S):** Rep. D. Keene

**AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to the expansion of gaming and making an appropriation therefor.

**SUMMARY OF LEGISLATION:** Create a noncodified section to state the findings of the General Assembly; amend KRS 154A.010 to define, "authorizing location," "casino," "county," "county legislative body," "department," "full casino gaming," "gaming licensee," "gross gaming revenue," "handle," "licensee," "limited casino gaming," and "principal"; amend KRS 154A.030 to expand the Lottery Corporation board membership and duties; amend KRS 154A.040 to include casino licensees; amend 154A.063 to remove prohibition against casino gaming; create new sections of KRS Chapter 154A to require a local option election in any precinct wanting to host a casino; describe the duties of the county clerk and sheriff in a casino gaming local option election; state requirements for local option elections held on a day other than a regular election day; require the corporation to advertise an invitation to bid for casinos; require the corporation to evaluate all proposals for full casinos; establish initial licensing fees for full casinos at \$50 million with an initial licensing period of 10 years and annual renewal thereafter at \$6 million per year; permit limited casino gaming at horse racing tracks licensed under KRS Chapter 230; establish requirements for limited casinos; establish requirements for any track holding a limited casino license; establish requirements for principals of any corporation granted a casino license; create license application requirements for casino, manufacturer, or supplier's licenses; prohibit anyone not licensed from selling, leasing, or otherwise furnishing gaming supplies; prohibit anyone under the age of 21 from participating in casino gaming; require the Lottery Corporation to determine occupations related to casino gaming that require licensure and establish criteria for occupational licensing; permit the corporation to initiate disciplinary action against applicants and license holders; establish an appeal process; establish a gaming tax of 31% and limit that money to the benefit of the state retirement systems for the first 10 years; establish an admission tax of \$3 per person per day; establish the casino gaming revenue distribution trust fund; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. sec. 1172, 1173 and 1174 for devices authorized by this Act; require the corporation to promulgate administrative regulations to define and limit games and devices permitted for gaming in casinos; provide guidelines for exclusion or ejection of certain persons; define "cheat" and provide penalties for those who cheat at casino games; amend KRS 243.500 to exempt limited or full casino gaming; amend KRS 525.090 to exempt persons engaged in casino gaming; amend KRS 528.010 to exempt gambling activity and devices licensed under KRS Chapter 154A; amend KRS 528.020 to conform; amend KRS 528.070 to exempt activity licensed under KRS Chapter 154A; amend KRS 528.080 to exempt those with the appropriate license required under KRS Chapter 154A; amend KRS 528.100 to exempt limited or full casino gaming licensed under KRS Chapter 154A; EFFECTIVE DATE DELAYED.

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)

BR 149 establishes expanded gaming in Kentucky, to include licensure for full casino gaming approved for establishment by local election and limited casinos at horse racing tracks that conduct pari-mutuel wagering.

Section 35 of the proposed legislation establishes a Class D felony for knowingly or intentionally 1) Use or possess with the intent to use a device to assist in projecting the outcome of a game, keeping track of playing cards, analyzing the probability of an occurrence related to gambling, or analyzing the strategy for playing or betting not permitted by the corporation; 2) Cheating at a gambling game, 3) Manufacture, sell, or distribute cards, chips, dice, etc.; 4) Alter or misrepresent the outcome of a game on which wagers have been made after the outcome but before the outcome is revealed to players; 5) Place a bet on the outcome after acquiring knowledge that is not available to all players and concerns the outcome of the game subject to the bet; 6) Claim, collect, take (or attempt) money or anything of value from a game by cheating; 7) Use or possess counterfeit chips or machine tokens; 8) Possess a key or device for opening, entering, or affecting the operation of game or mechanical device connected with a gambling

game; 9) Removing coins, tokens, chips, or other contents of a gambling game; or 10) Possess materials used to manufacture a slug or device intended to cheat.

Section 37 specifies that engagement in licensed casino gaming does not apply to a violation of law for Loitering pursuant to KRS 525.090. The female pronoun is added to KRS 528.020 Promoting Gambling, KRS 528.070 Permitting Gambling, and KRS 428.080 Possession of a Gambling Device. Criminal offenses KRS 528.070 Permitting Gambling and KRS 428.080 Possession of a Gambling Device are modified to specify gambling that is not licensed under KRS 154A. KRS 528.100 Forfeiture also clarifies that forfeiture of gambling devices or records possessed or used in violation of KRS Chapter 528 shall not apply to limited or full casino gaming licensed under KRS 154A.

AOC records reflect 30 convictions from Circuit Court and 27 convictions from District Court for FY2015-FY2017 surrounding Permitting Gambling, Possession of a Gambling Device, Promoting Gambling 1<sup>st</sup> and 2<sup>nd</sup> Degree, and Possession of Gambling Records (includes inchoate offenses).

The addition of this felony offense under BR 149 is not expected to have a significant impact on incarceration costs based on the limited number of offenses expected.

A Class D Felony sentence is 1 to 5 years. 10 Class D Felons cost KY \$114,808 to \$574,040  
1 Class D Felon costs KY \$11,481 to \$57,404 100 Class D Felons cost KY \$1.1M to \$5.7M

**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)

The proposed legislation has a negligible local impact in terms of incarceration costs. Section 35 does create Class A misdemeanor offenses if a person knowingly or intentionally 1) Makes a false statement on an occupational, manufacturer's, supplier's or casino license application; 2) Permits a person less than twenty-one (21) years of age to wager at a casino; or 3) Being less than twenty-one (21) years of age, enters or attempts to enter a casino.

While it is not possible to predict the number of misdemeanor offenders subject to these charges, however, the anticipated number 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:** James E. [Signature] 1/3/2017  
Commissioner, Kentucky Department of Corrections Date