

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # SB 23 . Prefiled . BR # 320 DOC ID #: 680

BILL SPONSOR(S): Sen. J. Carroll AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to sports wagering and making an appropriation therefor.

SUMMARY OF LEGISLATION: Establish KRS Chapter 239 and create new sections to define "amateur athletics," "collegiate sports contest," "commission," "principal," "professional sports contest," "sports wager," and "sports wagering"; create the Kentucky Gaming Commission; establish membership to be appointed by the Governor with the advice and consent of the Senate; establish the commission's responsibilities and authority; require the Governor to appoint an executive director and establish the executive director's responsibilities; require the commission to promulgate administrative regulations relating to sports wagering conducted by the Kentucky Lottery Corporation, racing associations licensed under KRS Chapter 230, and other locations; establish licensing fees; prohibit persons from wagering on an event in which they are a participant; establish the sports wagering distribution trust fund and the uses of the fund; establish penalties for tampering with the outcome of a sporting event and wagering on a sporting event by a participant; create a new section of KRS Chapter 138 to impose an excise tax on sports wagering at 25 percent of net sports wagering receipts; amend KRS 138.1817 to permit the Department of Revenue to work with the commission to restrict licensure in the event that sports wagering taxes are not paid; amend KRS 154A.010 to revise the definition of "amateur sports contest," and to define "collegiate sports contest," "professional sports contest," "sports wager," and "sports wagering"; amend KRS 154A.030 to conform and to prohibit the director or family member from being a part owner of a professional team or a board member of a college or university that engages in collegiate sports upon which sports wagers may be placed; amend KRS 154A.050 to include sports wagering; amend KRS 154A.060 to include sports wagering and to include contracts for the purchase of goods and services necessary for sports wagering; require monthly and annual reports to be submitted to the Kentucky Gaming Commission; amend KRS 154A.063 to permit sports wagering on collegiate and professional sports contests; amend KRS 154A.065 to prohibit accepting sports wagers on the outcomes of contests involving horses; amend KRS 154A.070 to include sports wagering and require contracts to be in accord with administrative regulations of the Lottery Corporation and the Kentucky Gaming Commission; amend KRS 154A.090 to stipulate that sports wagering retailers aggrieved by a decision of the board may appeal to the Kentucky Gaming Commission; amend KRS 154A.110 to include sports wagering; stipulate that unclaimed sports wagering prize money be added to the sports wagering distribution trust fund; to prohibit sports wagers from being accepted from members or coaches of professional or collegiate team; amend 154A.120 to include sports wagering; amend KRS 154A.130 to specify net sports wagering receipts collected by lottery to be used for expenses and moneys in excess of expenses shall be dedicated to the sports wagering distribution trust fund; amend KRS 154A.400 to include sports wagering and stipulate the criteria for selecting sports wagering retailers shall be developed in consultation with the Kentucky Gaming Commission; amend KRS 154A.420 to include sports wagering and permit the Lottery Corporation to require a retailer to establish separate sports wagering electronic funds transfer accounts; amend KRS 154A.430, 154A.440, 154A.600, and 154A.650 to include sports wagering; amend KRS 230.225 to permit the Kentucky Horse Racing Commission to oversee sports wagering at licensed racing associations; amend KRS 230.370 to require administrative regulations relating to sports wagering to be developed in consultation with the Kentucky Gaming Commission; amend KRS 243.500 to exempt the conduct of sports wagering licensed or permitted under KRS Chapter 239; amend KRS 12.020 to administratively attach the Kentucky Gaming Commission to the Public Protection Cabinet.

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 checked="" 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 \$71.10. 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 \$32.78 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 MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The proposed legislation establishes sports wagering in Kentucky. The legislation creates a new Class C felony offense of tampering with the outcome of a sporting event. Tampering occurs when a person interacts with a player, coach, referee, or participant with the intent to persuade the participant to act in a way that would bias the outcome of the sporting event or alter events within the sporting event that people might wager on.

Additionally, wagering on a sporting event in which he or she is a participant is prohibited and shall be subject to a Class C felony. A participant is defined as players, coaches, referees, judges, stewards or other officials involved in enforcing the rules of the game, and owners or shareholders of professional sports teams who might have influence over players and coaches through the ability to hire or fire.

Under the legislation, other offenses under state lottery statutes in KRS 154A are updated to include sports wagering, including the Class B felony of Lottery Influence/Winning Prize Through Coercion/Fraud and the Class C felony of Lottery Alter/Forge/Utter/Pass Counterfeit Ticket. Also impacted is Lottery Selling Ticket to a Person Under 18, which is a violation for a first offense and a Class B misdemeanor for a second offense.

The felony offenses would be subject to possible incarceration in a Kentucky state prison at an average cost of \$71.10 per day.

AOC records do not reflect any offenders convicted in FY2016-FY2018 under KRS 518.040 Sports Bribery, KRS 518.050 Receiving Sports Bribe, or KRS 518.060 Tampering with or rigging Sports Contest. There have been five (5) convictions under KRS 154A.990 for lottery violations and forty-eight (48) convictions under KRS 528 related to gambling.

Currently the Department of Corrections has two (2) inmates and two (2) offenders for Lottery offenses under KRS 154A.990(2) & 154A.990(3). The Department does not currently have any offenders for Sports Bribery, Receiving Sports Bribe, or Tampering/Rigging Sports Contest, but does have one (1) offender on supervision for Promoting Gambling 1st Degree. Note: offenders may be serving on other charges.

It is not possible to estimate how many offenses of tampering with the outcome of a sporting event would occur in the Commonwealth. Overall, the impact to the Department of Corrections resulting from this legislation is not expected to be significant due to limited convictions of this specific offense.

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 MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The impact to the local jails from this legislation would be minimal to non-existent. The legislation includes Class C felonies, which may be eligible to serve their sentences at the county jail if qualifying for community custody based on length of sentence remaining and custody classification. Jails receive \$31.34 per diem for state offenders serving their sentence in a county jail.

The legislation also adds sports wagering to the offense of knowingly selling a lottery ticket to a person under eighteen (18) years of age. The first offense is a Violation and the subsequent offense is a Class B misdemeanor. There have not been any convictions for this offense within the last three (3) fiscal years, according to AOC records.

The number of offenders sentenced to incarceration for these offenses, either felony or misdemeanor, is likely to be minimal.

A Class B misdemeanor is up to 90 days in jail.
1 Class B misdemeanor: up to \$2,821

10 Class B misdemeanants: up to \$28,206
100 Class B misdemeanants: up to \$282,060

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:  12/11/2018
Commissioner, Kentucky Department of Corrections Date