

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # HB 7 Prefiled . BR # 80 DOC ID #: xxxx

BILL SPONSOR(S): Rep. A. Gentry AMENDMENT SPONSOR(S): . .

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

SUMMARY OF LEGISLATION: Create a new section of KRS Chapter 154A 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 ten 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's, 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; create new sections of KRS Chapter 138 to establish wagering and admissions taxes to be remitted by gaming licensees and full and limited casinos; create new sections of KRS Chapter 154A to establish the casino gaming revenue distribution trust fund and limit that money to the benefit of the state retirement systems for the first ten years; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. secs. 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; APPROPRIATION; EFFECTIVE DATE DELAYED.

AMENDMENT: .

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) . | |
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STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$75.91. Community Custody Class C and most Class D felons are housed in one of 77 full service jails for up to 5 years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$36.70 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included). *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

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

The legislation establishes expanded gaming in Kentucky, subject to constitutional amendment. The legislation provides licensure for full casino gaming subject to local election and limited casinos at horse racing tracks.

Casino licensing stipulations surrounding criminal convictions are outlined, including 1) criminal convictions prohibiting application and 2) criminal convictions resulting in license revocation or suspension.

Section 34 of the proposed legislation establishes a Class D felony for knowingly or intentionally 1) Use or possess a device with the intent for 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) Cheat 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; 5) Place a bet on the outcome after acquiring knowledge that is not available to

all players and concerns the outcome; 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.

Class D offenders subject to incarceration would be housed according to statute at a local detention center at a cost to the state of \$36.70.

A Class A misdemeanor is established for knowingly or intentionally 1) making a false statement on a casino license application, 2) permitting a person under the age of twenty-one (21) to wager in a casino, or 3) being under the age of twenty-one (21), entering or attempting to enter a casino.

Section 36 specifies that the criminal violation of Loitering under KRS 525.090 does not apply to licensed casino gaming.

Sections 39-41 reference gambling offenses under KRS 528. The misdemeanor criminal offenses of KRS 528.070 Permitting Gambling and KRS 528.080 Possession of a Gambling Device are modified to specify activity not licensed under KRS 154A.

AOC records reflect sixty-six (66) convictions from FY2017-FY2019 surrounding Permitting Gambling, Possession of a Gambling Device, Possession of Gambling Records, and Promoting Gambling 1st and 2nd Degree (includes inchoate offenses). The Department of Corrections currently has zero (0) offenders incarcerated for gambling related offenses, with seven (7) offenders on felony supervision for Promoting Gambling and two (2) offenders on misdemeanor supervision for Possession of a Gambling Device.

The addition of a felony offense under this legislation is not likely to have a significant impact on incarceration costs due to the limited number of offenses expected.

A Class D Felony sentence is 1 to 5 years.

10 Class D Felons cost KY \$133,969.74 to \$669,848.70

1 Class D Felon costs KY \$13,396.97 to \$66,984.87

100 Class D Felons cost KY \$1,339,697.40 to \$6,698,487.00

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. Since the per diem is an estimated average cost of housing an inmate, the per diem may not be the actual housing cost for the jail. *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

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

Class D offenders as established under this legislation would serve their sentence in a county detention facility at a reimbursement rate of \$31.34 per day received by the jail. This does provide the potential revenue for counties, however, due to limited capacity, any number of additional offenders does impact local jail populations.

The legislation establishes a Class A misdemeanor offense. Misdemeanors are subject to the jurisdiction and cost of the county.

The anticipated number of misdemeanor or felony offenders subject to offenses established under this legislation would be minimal. Overall, the proposed legislation has a minimal local impact in terms of incarceration costs.

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

10 Class A misdemeanants: \$28,206.00 to \$114,391.00

1 Class A misdemeanant: \$2,820.60 to \$11,439.10

100 Class A misdemeanants: \$282,060.00 to \$1,143,910.00

Projected Corrections Impact from Amendments:

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: Kathleen M. Keamy 1/9/2020
Commissioner, Kentucky Department of Corrections Date