

CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # SB 253 Introduced BR # 1563 DOC ID #: xxxx

BILL SPONSOR(S): Sen. M. Nemes AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to the provision for and control of casino gaming and making an appropriation therefor.

SUMMARY OF LEGISLATION: Establish KRS Chapter 239 and create new sections to define "authorizing county or counties," "casino," "commission," "county legislative body," "department," "electronic gaming device," "full casino," "gross gaming revenue," "handle," "licensee," and "limited casino"; create the Kentucky Gaming Commission, assign powers and duties to the commission; establish executive director position; make commission, the executive director, and employees subject to executive branch code of ethics; require county election to authorize licensing of casino within county; require sheriff to advertise local option election for gaming; provide for procedures on local option elections for gaming not held on primary and regular election days; require the county board of elections to certify the results; establish commission as agency to solicit bids for casino gaming licenses and provide criteria for advertising the bid; establish procedure for evaluating bids for full casinos; provide bidding rights for racing associations; specify licensing requirements for full casinos, manufacturers, and suppliers; prohibit selling, leasing, or otherwise furnishing gaming supplies without a license; provide the option of limited casinos for racing associations; specify licensing requirements for limited casinos; prohibit any one under 21 years of age from placing a wager at a casino or being permitted access to a casino; provide for occupational licenses; grant the commission authority to initiate disciplinary action; provide grievance procedure; exempt licensed gaming devices from federal restrictions; grant the commission the authority to define and limit permissible games; provide for the exclusion of certain persons from casinos; require the commission to develop programs for education and treatment of problem gamblers; define "cheat" and provide penalties for cheating; amend KRS 15.380 to establish gaming commission employees as peace officers; create a new section of KRS Chapter 138 to establish a wagering and an admissions tax; amend KRS 243.500 to exempt licensed casino gaming; amend KRS 372.005 to include KRS Chapter 239; amend KRS 525.090 to exempt casino gaming; amend KRS 528.010 to gaming licensed under KRS Chapter 239; amend KRS 528.020 to exempt gambling devices operated under KRS Chapter 239; amend KRS 528.070 to exempt licensed gambling activity; amend KRS 528.080 to exempt those with a license issued under KRS Chapter 239; amend KRS Chapter 528.100 to exempt authorized casino gaming.

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 \$80.24. Community Custody Class C and most Class D felons are housed in one of seventy-seven (77) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).*

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

The legislation establishes casino gaming in Kentucky, subject to constitutional amendment. The legislation provides licensure for full and limited casino gaming. Casino licensing stipulations prohibit those with criminal convictions.

Section 27 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 related to gambling, or analyzing strategy for playing or betting not permitted;
- 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) Aids a person in acquiring described knowledge for the purpose of placing a bet;

- 7) Claim, collect, take (or attempt) money or anything of value from a game by cheating;
- 8) Use or possess counterfeit chips or machine tokens; or
- 9) Possess a key or device for opening, entering, or affecting the operation of game or mechanical device connected with a gambling game; removing coins, tokens, chips, or other contents of a gambling game; or
- 10) Possessing materials used to manufacture a slug or device intended to cheat.

A Class A misdemeanor is established for knowingly or intentionally:

- 1) Make a false statement on a casino license application,
- 2) Permit 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 32 specifies that the criminal violation of Loitering under KRS 525.090 does not apply to licensed casino gaming.

Sections 34-36 reference gambling offenses under KRS 528. The Class D felony KRS 528.020 Promoting Gambling and 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 239.

- ◇ AOC records reflect one (1) conviction in FY2020 and 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.
- ◇ The Department of Corrections currently has zero (0) offenders incarcerated for gambling related offenses, but there are nine (9) offenders on supervision for Gambling offenses under KRS 528.

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.

Cost to Incarcerate

A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$136,345.44 to \$681,727.22
1 Class D Felon costs KY \$13,634.54 to \$68,172.72	100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25

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. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.*

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 daily cost to the Commonwealth of \$37.35, with daily reimbursement \$31.34 received by the jail.

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.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$33,619.42 to \$136,345.44
1 Class A misdemeanant: \$3,361.94 to \$13,634.54	100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45
A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$33,619.42
1 Class B misdemeanant: up to \$3,361.94	100 Class B misdemeanants: up to \$336,194.25

Projected Corrections Impact from Amendments:

**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

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, lengthens the term or incarceration, or impose new obligations on state or local governments.

APPROVED BY:



Chief of Staff, Kentucky Department of Corrections

3/15/2021

Date