Local Government Mandate Statement Kentucky Legislative Research Commission 2022 Regular Session

Part I: Measure Information

Bill Request #: 1105						
Bill #: House Bill 767 GA						
Document ID #:						
Bill Subject/Title: AN ACT relating to the state lottery.						
Sponsor: Representative C. Ed Massey						
Unit of Government: X City X County X Urban-County Unified Local Image: Second Secon						
X Charter County X Consolidated Local X Government						
Office(s) Impacted: Local Jails						
Requirement: <u>X</u> Mandatory Optional						
Effect on Powers & Duties: Modifies Existing Adds New _X Eliminates Existing						

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

House Bill 767 amends KRS 154A.990 to remove language relating to a Class C felony to, when an individual who, with intent to defraud, falsely make, alter, forge, utter, pass, or counterfeit a state lottery ticket.

There is a possibility of still charging individuals that have an intent to defraud or alter a state lottery ticket as a different offense under the Kentucky Penal Code. A few sections could be applicable to this situation, KRS 514.030 Theft by unlawful taking or disposition and KRS 516.050 to 516.070, Criminal possession of forged instrument. With respect to KRS 514.030, the charge would remain a Class C felony if the value is at least \$10,000 but less than \$1 million and would become a Class D felony with a value of at least \$1,000 but less than \$10,000 or at least three convictions in five years when the value is at least \$500 but less than \$1,000, otherwise a Class A misdemeanor. With respect to KRS 516.050 to 516.070, the charge would remain a Class C felony with a criminal possession of a forged instrument in the first degree; a Class D felony for a second decree offense; and a Class A misdemeanor for a third decree offense.

The fiscal impact, if any would be minimal, dependent upon the number of individuals who would be charged with a misdemeanor rather than a Class C felony with KRS 154A.990 as amended. Local jails do not receive the \$31.34 per diem and medical expenses from the Department of Corrections to house those convicted of misdemeanors.

Class B and Class A misdemeanors:

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$35.43 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$35.43 per day.

Class D and Class C felons:

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$35.43, which includes the \$31.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

When a court denies bail to a Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$35.43, which includes the \$31.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. The per diem may be less than, equal to, or greater than the actual housing cost.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II, above, pertains to HB 767 GA version. The GA version of HB 767 is the same as the bill as introduced. It passed its chamber of origin without amendments or substitutes.

Data Sourc	ce(s): <u>LRC Staff; Kentu</u>	<u>cky Departme</u>	nt of Corrections		
Preparer:	Katherine L. Halloran	Reviewer:	КНС	Date:	3/15/22