

# CORRECTIONS IMPACT STATEMENT

SESSION: 23RS BILL # HB 106 Introduced BR # 944 DOC ID #: xxxx

BILL SPONSOR(S): Rep. D. Graham, C. Stevenson, R. Roberts AMENDMENT SPONSOR(S): . .

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

**SUMMARY OF LEGISLATION:** Establish KRS Chapter 239 and create new sections to define "adjusted gross revenue," "beginner," "cabinet," "confidential information," "entry fee," "fantasy contest," "fantasy contest operator," "fantasy contest participant," "highly experienced player," "immediate family," "location percentage," "net poker revenue," "online poker," "person," "principal stockholder," "rake," "registered fantasy contest operator," "script," "secretary," and "wager"; establish requirements for registration as a fantasy contest operator; require the Public Protection Cabinet to promulgate administrative regulations for the operation of fantasy contests; establish the wagering administration fund and direct the uses of that fund; require an annual audit of fantasy contest registrants; establish requirements for fantasy contest procedures; require any person offering online poker in the Commonwealth to have a license from the cabinet and require the cabinet to promulgate administrative regulations prescribing requirements for licensure including geolocation software, age verification, and security and accounting standards; amend KRS 230.210 to define "sports wagering"; create new sections of KRS Chapter 230 to require the racing commission to institute a system of sports wagering at tracks; limit the types of events upon which wagers may be placed; amend KRS 230.215 to declare the intent to allow citizens to enjoy sports wagering and allow the racing commission to promulgate administrative regulations prescribing conditions under which sports wagering is to be conducted; amend KRS 230.225, 230.240, and 230.260 to include sports wagering; create a new section of KRS Chapter 230 to establish sports wagering licensure requirements; amend KRS 230.320 to conform; amend KRS 230.361 to include sports wagering; amend KRS 230.3615 to conform; create a new section of KRS Chapter 138 to define "adjusted gross income" and impose a tax on sports wagering; amend KRS 230.362, 230.363, 230.364, 230.365, 230.366, 230.369, 230.371, 230.372, 230.373, 230.374, and 230.750 to conform; create a new section of KRS Chapter 230 to prohibit participants from wagering on events in which they participate and to prohibit tampering with the outcome of a sporting event; amend KRS 230.990 to provide penalties for participants who wager on sporting events or tamper with the outcome of a sporting event; amend KRS 243.500 to exempt sports wagering and online poker; amend KRS 525.090 to exempt sports wagering; amend KRS 528.010 to exempt fantasy contests, sports wagering, and online poker and the devices used in the conduct of those forms of wagering; amend KRS 528.020, 528.070, and 528.080 to exempt fantasy contests, sports wagering, and online poker; create a noncodified section to assert that the provisions of the Act are severable; APPROPRIATION.

**AMENDMENT:** .

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This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |   |  |
|---|--|
| <input 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 \$105.23. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$40.11 per day, which includes \$35.34 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 impact to the Department of Corrections resulting from this legislation legalizing sports wagering is not expected to be significant. Overall, the number of convictions for the specific offenses included in the legislation would be expected to be limited.

The proposed legislation creates a new Class C felony offense under KRS 230.990 of tampering with the outcome of a sporting event. Tampering is defined as interacting with a participant with the intent to persuade in such a way that would alter the outcome or actions within the sporting event.

- ◆ The Class C felony is subject to possible incarceration in a Kentucky state prison at an average cost of \$105.23 per day or at a local detention center at a lower cost to the state, depending on eligibility for community custody.
- ◆ Also under KRS 230.990, a Class A misdemeanor is established for wagering on a sporting event in which he or she is prohibited from doing so as a participant. Participant is defined in the legislation.

Under KRS 525.090, sports wagering, fantasy contests or online poker are added to the exception for the violation of loitering.

The legislation modifies KRS 528.020 Promoting Gambling 1<sup>st</sup> Degree, KRS 528.070 Permitting Gambling, and KRS 528.080 Possession of a Gambling Device, specifying gambling activity not authorized under KRS 230 (Horse Racing and Showing) or KRS 239 (Fantasy Contests and Online Poker as established under the legislation).

- ◆ Promoting Gambling 1<sup>st</sup> Degree is a Class D felony.
- ◆ Permitting Gambling is a Class B misdemeanor.
- ◆ Possession of a Gambling Device is a Class A misdemeanor.

The legislation also provides licensing/registration restrictions based on criminal history.

It is not possible to estimate how many offenses of tampering with the outcome of a sporting event would occur in the Commonwealth.

- ◆ The Department of Corrections currently has zero (0) offenders incarcerated for gambling related offenses, but there are ten (10) (7) offenders on supervision for gambling offenses under KRS 528. There are zero (0) inmates or offenders under KRS 230 related to horse racing or KRS 518 offenses for sports bribery.
- ◆ From FY20-22 AOC records reflect two (2) convictions surrounding KRS 528 Promoting Gambling, KRS 528 Possession of a Gambling Device, KRS 518 Bribery, or KRS 518 Ticket Scalping.

#### Cost to Incarcerate

A Class C Felony sentence is 5 to 10 years.

10 Class C Felons cost KY \$1,920,472.45 to \$3,840,944.90

1 Class C Felon costs KY \$192,047.24 to \$384,094.49

100 Class C Felons cost KY \$19,204,724.51 to \$38,409,449.03

**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 \$40.11 cost to incarcerate for the Department of Corrections, including \$35.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail.\*

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

The modifications for offenses related to gambling under this legislation are not expected to significantly alter the number of convictions under these offenses. Overall, it is expected that the number of offenders sentenced to incarceration for this offense is likely to be minimal.

The legislation establishes a Class C felony.

- ◆ Class C offenders 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 \$35.34 per diem for state offenders serving their sentence in a county jail.

The legislation establishes a Class A misdemeanor for wagering on a sporting event if a participant.

- ◆ Misdemeanors are subject to the jurisdiction and cost of the county.

#### Cost to Incarcerate

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

10 Class A misdemeanants: \$36,096.02 to \$146,389.42

1 Class A misdemeanant: \$3,609.60 to \$14,638.94

100 Class A misdemeanants: \$360,960.22 to \$1,463,894.26

#### **PROJECTED IMPACT FROM AMENDMENTS:**

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

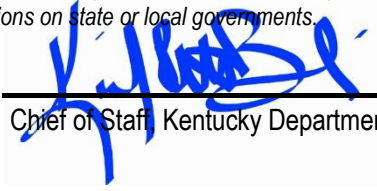
*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers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

**2/1/2023**

Date