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HOUSE BILL 2882

CHANGES TO TRUTH-IN-SENTENCING GOOD-TIME SENTENCING CREDIT RESTRICTIONS
730 ILCS 5 SECTION 3-6-3

IDOC POPULATION REDUCTION: between 700 and 1,400 fewer inmates over 8 years

TOTAL PRESENT VALUE OF BENEFITS IN REDUCED FISCAL COSTS: between $86 million and $129 million
TOTAL PRESENT VALUE OF VICTIMIZATION COSTS FOR PROPOSED CHANGES: $47 million

NET BENEFITS RANGE (BENEFITS MINUS COSTS): between $39 million and $82 million

NOTE: DUE TO THE LENGTH OF STAY IN PRISON FOR THESE OFFENSES, NET BENEFITS WILL NOT BE FULLY REALIZED UNTIL THE CURRENT LONG-TERM POPULATION BEGINS EXITING IDOC, PHASING IN OVER THE NEXT 10 YEARS AND CONTINUING TO ACCRUE OVER THE NEXT 40 YEARS.

House Bill 2882 (HB2882) amends the Unified Code of Corrections to reduce truth-in-sentencing (TIS) restrictions as follows:

(1) Permits offenders convicted of murder to receive 7.5 days of sentence credits per month, resulting in a length of stay of 75% rather than 100% of the sentence imposed;
(2) Permits up to 8.5 days of credit for the majority of offenses currently limited to 4.5 days of good-time credit each month;
(3) Increases the number of allowed credits for gunrunning, drug-induced homicide, and meth-related child endangerment from 7.5 days per month to 10.5 days per month; and,
(4) Removes the restriction on earning good-time sentence credits for drug offenses.

These changes would apply to new admissions and to those currently incarcerated for the effected offenses, with credit accruing as of the effective date of the act. No credit can be awarded for time served prior to the effective date. This proposal creates benefits over many years, so SPAC applied both a 2% and a 5% discount rate to find the net present value of cash flows that accrue in future years.[1] This methodology produced the high and low estimates in Table 1.

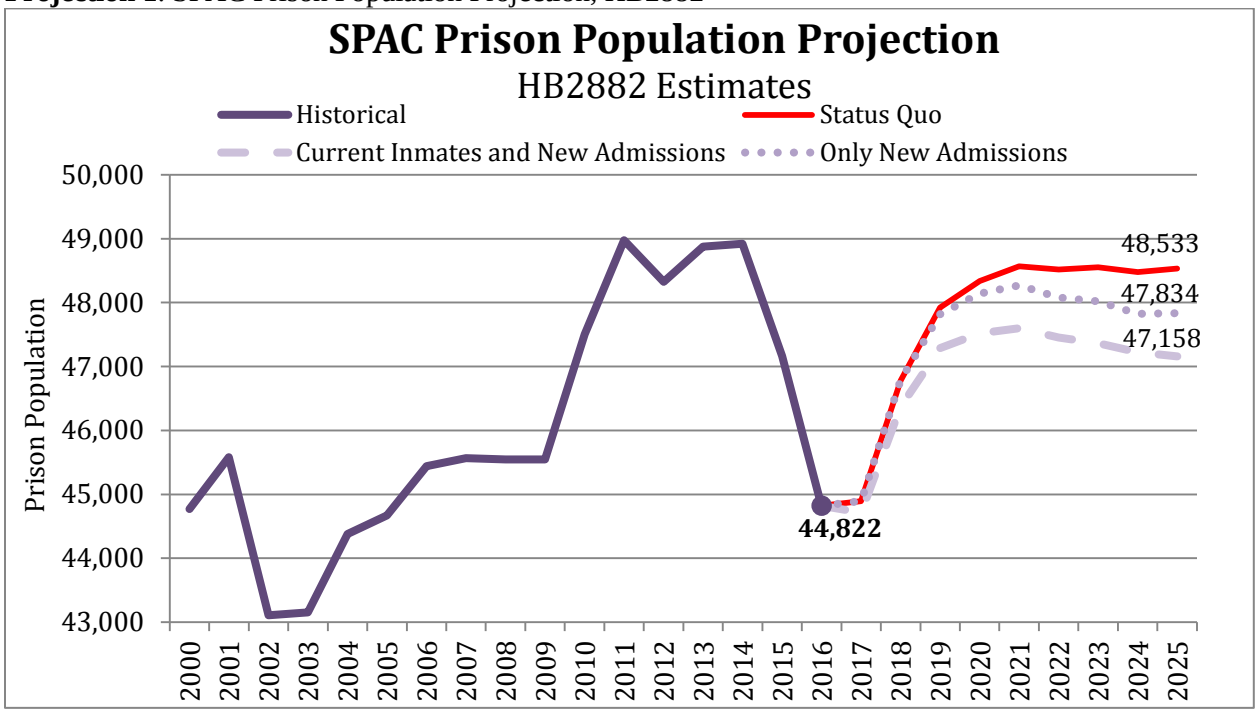
Table 1. Total Change in Costs

Impact on State Costs and Public Safety		
Reduced Bed-Years for IDOC		23,640
Benefits: IDOC Costs Avoided	High Estimate	$129,155,000
	Low Estimate	$85,999,000
Additional Victimization Costs		–$46,713,000
Net Benefits (Benefits minus Costs)	**High Estimate**	$82,442,000
	Low Estimate	$39,286,000

[1] This technique is common for businesses and governments to address the decreased value of both future costs and future benefits. In effect, this takes into consideration the time value of money—a dollar today is worth more than a dollar ten years from now.

SPAC Prison Population Projection

Projection 1. SPAC Prison Population Projection, HB2882



A population projection answers the question "What if these policies were enacted?" In the graph above, the red line in the projection shows the baseline, status quo projection of the prison population estimated for June 30th of each year. Applying these changes to the current truth in sentencing population illustrates how the length of stay lever drives the population. 30% of the current population is subject to truth in sentencing limitations, however only 7% of the new admissions are subject to TIS. Allowing more sentence credit for the current population accelerates exits from IDOC for over 30% of the population. This produces a population impact more quickly than if the increased credits are limited to new admissions.

The projections rely on the assumption that admissions, sentences, and IDOC discretionary sentence credit awards remain consistent with the recent past, FY2014-16. The only change between the status quo and the two scenarios are the amount of good-time credits awarded and which inmates receive the credits. Other impacts, such as changes to crime, arrests, felony filings, plea deals, convictions, or sentencing decisions, cannot be measured and are not reflected in the SPAC model. The model does account for other discretionary and earned credits, such as supplemental and program credits, awarded by IDOC, but those credit decisions are held constant between the status quo and the two scenarios.

The model uses the following assumptions:

- Current practices for revocations of good-time credit remain constant.
- For the current inmate population, SPAC assumes they would receive good-time credit under the new HB2882 rules going forward only and no additional credits for time already served.
- SPAC applies the TIS changes to consecutive sentences.
- SPAC assumes that the time served for technical revocations for individuals subject to TIS do not substantially change. In practice, technical violators subject to TIS would receive more good-time credit and be released earlier. The model is thus underestimating the impact of the reform, although this effect would not be large.

The projection model includes continuous admissions in future years. SPAC's fiscal impact analyses are retrospective and only examine the past three years. Because of this difference, SPAC does not apply any fiscal calculations to the projection so that all fiscal impact analyses are directly comparable throughout each legislative session.[2]

SPAC FISCAL IMPACT ANALYSIS METHODOLOGY

SPAC looks retrospectively at the past three fiscal years, 2014 through 2016, to determine the fiscal impact of these policies had they been in effect. The data for arrests, convictions, IDOC admissions, and probation sentences are from Criminal History Reporting Information (CHRI, past three calendar years available, 2013-2015) and from the IDOC's Planning and Research Division (past three fiscal years, FY2014-2016). To calculate the cost to the criminal justice system, SPAC uses CHRI and IDOC data on (A) the number of convictions for first and subsequent arrests under the applicable statutes, (B) the average length of stay in county and IDOC facilities, and (C) past spending on prisons and county criminal justice systems.[3]

Beginning this year, SPAC uses a dynamic marginal cost (DMC) methodology that it developed after analyzing both State and local public safety budgeting over several decades. Dynamic marginal costs allow a more accurate calculation of costs per client where the costs depend on the magnitude of the change compared to the status quo. The DMC can include multiple cost types:

- Traditional variable costs, which vary directly with changes in service and are consistent for the first or thousandth person;
- Step costs, which are primarily personnel costs that change only when the services increase or decrease sufficiently to affect staffing and grow with the number of steps; and
- Fixed costs, which are related to physical space requirements that vary only with large service changes.

After examining criminal justice budgets at the State and local levels, SPAC determined that using DMC brings SPAC's fiscal impact calculations more in line with actual budgeting practices and resource allocation in Illinois. For example, for State prisons, the costs increase when the affected population is more than about 800 inmates, the equivalent of a housing unit. Larger changes include the costs for criminal justice employees' benefits, which may be paid for outside criminal justice budgets (*e.g.*, IDOC staff pension benefits are paid through the Central Management Services budget). At very large changes in the prison population, even capital costs are included. This method yields a more accurate estimate of taxpayer expenses for prisons and jails in Illinois.

This methodology differs from past practice where SPAC utilized two simpler marginal costs, one for policies that implicated a population impact of less than 800 beds in IDOC and one for anything over an 800 bed impact.

The Administrative Office of the Illinois Courts (AOIC) calculated the cost of probation based on risk level. The $1,900 per person per year is the average of these annual costs. To calculate the cost of pretrial detention, local supervision (probation), SPAC examined the CHRI data for time served (pretrial detention) and the sentence lengths ordered by the court for jail or probation terms.

[2] The Sentencing Policy Advisory Council (SPAC) is a statutorily created council that does not support or oppose legislation. Data analysis and research is conducted by SPAC's research staff. The analysis presented here is not intended to reflect the opinions or judgments of SPAC's member organizations.

[3] Local costs are estimated from SPAC's survey of county budgets, available on SPAC's website: http://ilspac.illinois.gov.

As SPAC builds its capability for estimating costs and benefits to other stakeholders—the judicial system, probation systems, law enforcement, and communities—SPAC will include impact on these areas and constituencies in its analysis of proposed legislation.

Table 2 shows the number of admissions over three years and the number of individuals in the IDOC population on June 30, 2016 for truth-in-sentencing offenses. These individuals receive less credit for time served than the day for day credit given to those not subject to truth in sentencing. Because of the increased length of stay for these inmates, this cohort of the population has grown over time as admissions are greater than the number of exits per year for those subject to truth in sentencing.

Table 2. Number of Individuals Subject to Truth-in-Sentencing in IDOC[4]

Most Serious Class	Truth-in-Sentencing Admissions from Court, FY14-16				June 30, 2016 Population		
	100%	85%	75%		100%	85%	75%
Murder	630	--	--		4,010	--	--
Class X	--	2,198	171		--	6,640	408
Class 1	--	566	6		--	1,021	11
Class 2	--	624	2		--	791	3
Class 3	--	11	2		--	9	--
Class 4	--	81	--		--	72	--
Technical Violator	--	1,442	9		45	729	7
Subtotal	630	4,921	192		4,055	9,262	429
TOTAL	**5,743**				**13,747**		
Percent of Total Admits and Prisoners	***6.8%***				***30.7%***		

Allowing more sentence credit for the current population accelerates exits from IDOC for over 30% of the population. This application produces a population impact more quickly than if the increased credits are limited to only 7% of the new admissions. In the chart below the second column, impact based on admissions, shows the impact had the bill been in effect and limited to those admitted to prison over the last three years. The impact of applying these changes to those who were sentenced prior to those admissions is shown in column three. The final column shows the combined impact of HB2882, had it been in effect for the past three years.

Table 4. Proposed Impact on IDOC's Population

Years from Implementation	Impact from 3 Years of Admissions	Impact from Current Inmate Population	Total Impact
Year 1	1	73	74
Year 3	213	700	913
Year 5	420	507	927
Year 10	265	596	862
Year 20	198	535	733
Year 30	108	516	620

The impact of this proposal would grow over the first few years and then continue at a sustainable level over time. The impact on the three year admission to prison cohort grows until year five and then decreases over the next few decades.

[4] Appendix A shows the number of inmates subject to each subsection of the truth-in-sentencing law.

Table 5. Proposal's Fiscal Impact Over 40 Years, Current Value (2% discount rate)

Net Present Value *(2% discount rate)*	**First Year**	**First 5 Years**	**Total Impact over 40 years**
Impact from Current Inmate Population	$465,000	$16.4 million	$96.6 million
Impact from Three Years of Admissions	$5,000	$7.2 million	$32.5 million
Total	**$470,000**	**$23.6 million**	**$129.1 million**

Table 3. Proposed Changes to Truth-in-Sentencing Credit Restrictions

Section of 730 ILCS 5/3-6-3(a)		Offense	Current Law	Proposed
No Change	(2)(i)	Terrorism	No sentence credit	No change
Murder from 100% to 75%	(2)(i)	First Degree Murder	No sentence credit	7.5 days/month
85% reduced to 72%	(2)(ii)	Attempted Terrorism, Attempted or Solicit Murder	4.5 days/month	8.5 days/month
	(2)(ii)	Intentional Homicide of Unborn Child	4.5 days/month	8.5 days/month
	(2)(ii)	Aggravated Kidnapping	4.5 days/month	8.5 days/month
	(2.5)	Aggravated Arson	4.5 days/month	8.5 days/month
	(2)(ii)	Criminal Sexual Assault, Predatory Criminal Sexual Assault of a Child, or Aggravated Criminal Sexual Assault	4.5 days/month	8.5 days/month
	(2)(ii) and (iii)	Armed Habitual Criminal, Armed Violence with Category I or II Weapon With Great Bodily Harm	4.5 days/month	8.5 days/month
	(2)(ii), (iii), and (vii), and (2.4)	Aggravated Battery With Firearm, Machine Gun, or Silenced Weapon, Aggravated Battery of Senior Citizen or Child, Aggravated Domestic Battery, or Heinous Battery	4.5 days/month	8.5 days/month
	(2)(iii)	Home Invasion, Armed Robbery, or Vehicular Hijacking With Great Bodily Harm	4.5 days/month	8.5 days/month
	(2.3) and (2.6)	Aggravated DUI (Section 11-501(d)(1)(C) or (F))	4.5 days/month	8.5 days/month
	(2)(ii), (iii), and (iv), and (2.4)	Aggravated Discharge of Firearm: With Machine Gun, Silenced Weapon, Great Bodily Harm, or Without Great Bodily Harm	4.5 days/month	8.5 days/month
	(2)(vi)	Second or Subsequent Luring a Minor	4.5 days/month	8.5 days/month
75% reduced to 65%	(2)(v)	Gunrunning	7.5 days/month	10.5 days/month
	(2)(v)	Drug-Induced Homicide	7.5 days/month	10.5 days/month
	(2)(v)	Aggravated Methamphetamine-Related Child Endangerment	7.5 days/month	10.5 days/month
TIS Eliminated	(2)(v)	Calculated Criminal Drug Conspiracy, Criminal Drug Conspiracy, Street Gang Criminal Drug Conspiracy, Narcotics Racketeering, and Methamphetamine Conspiracy (greater than 100 grams)	7.5 days/month	Day-for-day
	(2)(v)	Controlled Substance and Methamphetamine Trafficking	7.5 days/month	Day-for-day
	(2)(v)	Money Laundering (clause (c)(4) or (5) of Section 29B1)	7.5 days/month	Day-for-day
	(2)(v)	Class X Felony for Delivery of Controlled Substance	7.5 days/month	Day-for-day
	(2)(v)	Delivery of Methamphetamine, Participation and Aggravated Participation of Meth Manufacturing, and Possession and Aggravated Possession with Intent to Deliver Meth	7.5 days/month	Day-for-day

Reducing length of stay through the proposed sentence credits also shortens the incapacitation of these offenders which will produce victimization costs—*i.e.*, recidivism events—that offset the IDOC costs avoided. Using data on the recidivism rates and types of crimes committed by people convicted of each category of offense, SPAC estimated that the total dollar value of victimization costs due to a shorter prison term for these offenders is $46.7 million.

SPAC calculates the incapacitation effect in two ways:

1. Offenders may age out—because the average age at exit would be younger, the recidivism rate may be slightly higher as younger felons generally recidivate more (*Recidivism Benefits* in Table 6 below). Here, negative victim benefits are additional victimizations and associated victim costs. SPAC reviewed historical data from IDOC and from the State's Criminal History Record Information (CHRI) to find recidivism rates at each age from 18 through 60 and applied these recidivism rates and trends to the age offenders would have exited prison had the bill been in effect.[5]
   - The estimate presented here calculates the victim effects due to changes in recidivism for three age groups: those offenders under 27, who have falling recidivism rates with increased age; those offenders between 28 and 36 with rising recidivism rates; and those offenders older than 37, who exhibit gradual reductions in recidivism rates. Because these age groups' recidivism rates changed consistently across crime types, felony classes, and gender, SPAC found these methods reasonable for calculating changes in recidivism due to sentencing changes. The SPAC Victimization Supplement fully explains this methodology: http://www.icjia.state.il.us/spac/pdf/Victimization_Supplement_0415.pdf
   - The change in prison sentence would happen to both current inmates and those admitted over the past three years. The impact to both populations is shown in Table 6.

2. Crimes are delayed because offenders are incapacitated meaning crimes occur later or earlier due to the timing of the offenders' release (*Incapacitation Benefits* in Table 7). Because a dollar not stolen today is worth more than a dollar stolen tomorrow, crime delays create benefits to crime victims. This effect is referred to as the social discount rate. SPAC applied a 3% discount rate to victimizations under the different incapacitation lengths to estimate the possible benefit of delayed crime.
   - The change in prison sentence would happen to both current inmates and those admitted over the past three years. The impact to both populations is shown in Table 7.

SPAC's methodology assumes there is a correlative effect between age and timing of recidivism due to incarceration/incapacitation. More research is necessary to determine further victim impacts and causal relationships between incarceration and victimization.

Table 6. Increased Recidivism Victimizations

Recidivism Benefits	Age Groups for Offenders	Percent of Offenders in Each Age Group	Number Offenders	Recidivism Rate Change per Year Older	Difference in Years	Predicted Recidivism Rate Change	Ratio of Conviction Rate to Recidivism Rate	Three Year Victimization Costs per Offender	Victimization Benefits (discount for future release)
		P	N x P = N'	K	L' - L = D	K x D = E	(Convictions : Recidivism) = Z	V3	N' x E x Z x V3
	18 to 27	26.1%	4,699	-2.1%	-3.01	6.3%	1.65	-$53,345	-$20,477,614.64
	28 to 36	33.6%	6,067	0.3%	-3.01	-0.9%	1.65	-$53,345	$3,776,521.32
	37 to 50	27.5%	4,969	-0.7%	-3.01	2.1%	1.65	-$53,345	-$7,218,067.10
	Total	**87.2%**	**18,039**						**-$23,919,160**

*Total number of offenders affected. The numbers in age groups above does not include those over 50.

[5] These impacts were measured against the national dollar values of index crimes. The dollar values include both tangible (medical and employment losses, property losses) and intangible (pain and suffering) costs, following the best national research completed in 2010. A full description of the methodology is available in the Victimization Supplement.

Table 7. Costs Due to Increased Victimizations

Incapacitation Benefits	Length of Stay (Years)	Length of Stay Proposed (Years)	Difference in Years	One Year Victimization Costs per Offender	Net Present Value of Victimization Costs under Proposal (3% discount rate)	Net Present Value of Changes in Length of Stay	Number of Offenders	Victimization Benefits (discount for future release)
	L	L'	L - L' = D	V1	V1/[(1+0.03)^D] = V1'	NPV = V1' - V1	N	NPV x N
	10.49	8.25	3.01	-$18,951	-$17,339	-$1,613	18,039	-$22,794,117
							Total	**-$22,794,117**

LIMITATIONS AND ASSUMPTIONS

- The analysis excludes the cost of State supervision during mandatory supervised release. While MSR supervision is not directly affected, technical violations or returns to prison are still subject to the limitations on good-time credit accrual based on the original admission. These impacts are not counted and would increase the costs avoided for IDOC.
- SPAC does not include the local costs for detaining individuals who are arrested but not convicted or given a withheld judgment.
- For the fiscal impact analysis, SPAC counts offenders only under their most serious offense. Some offenders may have second or third offenses that are subject to truth-in-sentencing.
- SPAC conservatively counts only IDOC costs avoided that occur before an individual's 60th birthday. This cut-off accounts for (a) average age at admission, (b) life expectancy for individuals at that age, and (c) the impact of incarceration on individuals' health. However, almost 2,000 individuals were older than 60 in prisons on June 30, 2015 (3.4% of the prison population). This conservative estimate likely underestimates the true size of the impact.
- The size of the benefits and costs depend on the social discount rates used in the calculations. For the high and low estimates, 2% and 5% were used, respectively, to provide a range of plausible estimates for the current value of costs avoided over the next several decades. For the incapacitation effect on victimization costs, 3% was used to show social value in delaying crime.
- Cumulative impacts of continual admissions of offenders subject to truth-in-sentencing are not included. This analysis only includes admissions over the past three years. Assuming these admissions will remain constant at about 1,400 offenders per year, the cumulative impact in year ten after implementation would be 1,200 fewer people.

Appendix A: Number of Individuals in IDOC on June 30, 2016 Subject to Truth-in-Sentencing

Type of Offense	Number of People	Percent of IDOC's Population
First Degree Murder	4,054	9.0%
Predatory Criminal Sexual Assault	2,061	4.6%
Attempted Murder	1,168	2.6%
Aggravated Criminal Sexual Assault	1,020	2.3%
Aggravated Battery with Firearm	955	2.1%
Criminal Sexual Assault	853	1.9%
Armed Habitual Criminal	766	1.7%
Aggravated Domestic Battery	529	1.2%
Aggravated Discharge Firearm	399	0.9%
Aggravated DUI (Great Bodily Harm or Death)	373	0.8%
Aggravated Battery of Child	292	0.7%
Aggravated Kidnapping	289	0.6%
Possession with Intent or Delivery of Controlled Substance	239	0.5%
Armed Robbery with Great Bodily Harm	131	0.3%
Home Invasion with Great Bodily Harm	125	0.3%
Aggravated Arson	78	0.2%
Armed Violence with Weapon with Great Bodily Harm	63	0.1%
Solicit Murder	62	0.1%
Drug-Induced Homicide	53	0.1%
Participation in Methamphetamine Manufacturing	44	0.1%
Heinous Battery	40	0.1%
Controlled Substance Trafficking	29	0.1%
Aggravated Battery of Senior Citizen	23	0.1%
Aggravated Vehicular Hijacking with Great Bodily Harm	19	0.1%
Reckless Homicide	15	0.0%
Criminal Drug Conspiracy	14	0.0%
Possession with Intent to Deliver Meth	13	0.0%
Aggravated Participation in Meth Manufacturing	23	0.1%
Other Truth-in-Sentencing Offense	29	0.1%
Total Subject to Truth-in-Sentencing	*13,740*	*30.7%*
Not Subject to Truth-in-Sentencing	*31,083*	*69.3%*
IDOC Population, as of June 30, 2016	**44,823**	**100%**

Appendix B: Demographics of those Subject to Truth-in-Sentencing

The table below shows the race and gender of offenders admitted to IDOC and where TIS commitments to IDOC originate. Here, race is self-identified upon admission to prison. The "Other" includes self-identified Hispanic, Asian/Island Pacific, Native American, and Unknown races. Note: these tables include only new court admissions and not admissions for technical violations.

Table B.1. Past Three Years Admissions to IDOC for TIS Offenses by Race and Gender

	Male	Female	Total	Percent
White	997	89	1,086	**25%**
Black	2,221	88	2,309	**54%**
Other	864	33	897	**21%**
Total	**95%**	**5%**	**4,292**	**100%**

Table B.2. Top 10 Admitting Counties to IDOC for TIS Offenses over the Past Three Years

County	Number of Admissions	Percent
Cook	2,307	54%
Winnebago	141	3%
Lake	136	3%
St. Clair	128	3%
Will	124	3%
Kane	120	3%
DuPage	110	3%
Peoria	102	2%
Macon	92	2%
Madison	89	2%
Other	943	22%
Total	**4,292**	**100%**