

HOUSE BILL 3355 – HOUSE AMENDMENT 1

PROJECTED IDOC POPULATION IMPACT, CUMULATIVE: -7,900 INDIVIDUALS ANNUALLY

NOTE: THIS IS A PARTIAL PROJECTION DUE TO DATA LIMITATIONS

PARTIAL BENEFITS IN REDUCED COSTS OVER THREE YEARS: BETWEEN \$419 AND \$462 MILLION

PARTIAL VICTIMIZATION BENEFITS OVER THREE YEARS: -\$57.4 MILLION

PARTIAL NET BENEFITS (BENEFITS MINUS COSTS): between \$362 and \$405 million

This summary breaks down the fiscal and population impacts of the separate provisions in House Amendment 1 to House Bill 3355 ([HB3355](#)). Each section includes the bill page number and references the final report of the Illinois Commission on Criminal Justice and Sentencing Reform (Rec. #, p. #) for each provision. For the full Commission report, please see http://www.icjia.org/cjreform2015/pdf/CJSR_Final_Report_Dec_2016.pdf. The full SPAC analysis of this bill is included in the report below.

Theft and Retail Theft, p. 6:

- Raises felony-theft threshold to \$2,000 for theft and retail theft offenses; limits basis for automatic enhancement to felony theft to only prior felony theft convictions.
- Annual Prison Population Impact: **-1,100**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Rec. 10, p. 40

Drug Penalties, p. 12:

- Decreases drug offenses one felony class; increases eligibility for specialty probation programs; limits extended term sentences for drug offenses.
- Annual Prison Population Impact: **-5,000**
- Costs Avoided Over Three Years: **\$332.9 million**
- Victim Benefits Over Three Years: **-\$10.4 million**
- Total Net Benefits Over Three Years: **\$322.5 million**
- Rec. 15, p. 50 and Rec. 16, p. 52

Mandatory Supervised Release, p. 108, 175:

- Mandates the Prisoner Review Board to release low-risk and low-needs individuals, based on a validated, evidence-based risk assessment tool; decreases the supervision term for each felony class.
- Annual Prison Population Impact: **unknown**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Rec. 24, p. 70

Truth-in-Sentencing, p. 109:

- Allows 7.5 days of credit for those currently getting zero credit; increases credits from 4.5 to 8.5 and from 7.5 to 10.5 for specified offenses; applicable to current inmates after the effective date; no credit for time served prior to effective date.
- Annual Prison Population Impact: **-1,400**
- Costs Avoided Over Three Years: **\$86-\$129 million**
- Victimization Benefits Over Three Years: **-\$47 million**
- Total Net Benefits Over Three Years: **\$39-\$82 million**
- Rec. 19, p. 58

Prohibit Use of Prison for Felons with Short Lengths of Stay, p. 138, 182:

- Prohibits admission to a prison facility for individuals projected to stay in prison for under four months; authorizes IDOC to divert to other custody options.
- Annual Prison Population Impact: **-21**
- Costs Avoided Over Three Years: **-\$56,000**
- Victimization Benefits Over Three Years: **-\$5,000**
- Total Net Benefits Over Three Years: **-\$61,000**
- Rec. 9, p. 38

Habitual Criminal (Three Strikes), p. 140:

- For repeat Class 1 or Class 2 felons, counts only forcible felonies towards the third strike sentence enhancement; prohibits counting drug offenses.
- Annual Prison Population Impact: **-250**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Rec. 14, p. 48

Expand Probation and Specialty Probation Eligibility, p. 144, 165 and 169:

- Restores probation eligibility for Controlled Substance Act and residential burglary offenses; excludes all drug offenses from the repeat offender prohibition on eligibility; expands eligibility for Offender Initiative Program and Second Chance Probation.
- Annual Prison Population Impact: **unknown**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Rec. 11, p. 42

Methodology and Assumptions:

- SPAC modeled each component separately and together and compared the projected prison population to a status-quo projection of what the population would be if nothing changes. **The population estimates are prospective.**
- The cumulative projection may not equal the sum of each component part because (A) the reforms may enhance each other—*e.g.*, a shorter prison term imposed *plus* more credits create larger reductions when done together—and/or (B) the reforms may overlap—*e.g.*, an expected prison admission is instead a probation sentence, even though the sentence would have been shorter under a different reform component.
- **The fiscal impacts are retrospective and the total costs and benefits for the past three years had the changes been in effect.** The fiscal costs avoided are the retroactive costs that would have been incurred had this bill been in effect compared to the actual past spending. The costs avoided are primarily based on reduced use of prison, calculated individually for each component.
- Victimization benefits reflect the economic value of recidivism; negative victim benefits indicate more recidivism events while positive benefits indicate reduced recidivism.¹
- The costs per year of resource use are generated from SPAC’s analysis of past spending across the criminal justice system² and using a dynamic marginal cost that depends on the size of the impact.³
- The projection model includes continuous admissions in future years while fiscal impact analyses are

retrospective. 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.

Data Sources:

- Criminal History Record Information, Jan 2013-Dec 2015
- Illinois Department of Corrections data, FY2014-FY2016
- National Incident-Based Reporting System, 2014

Component Analyses and Appendices:

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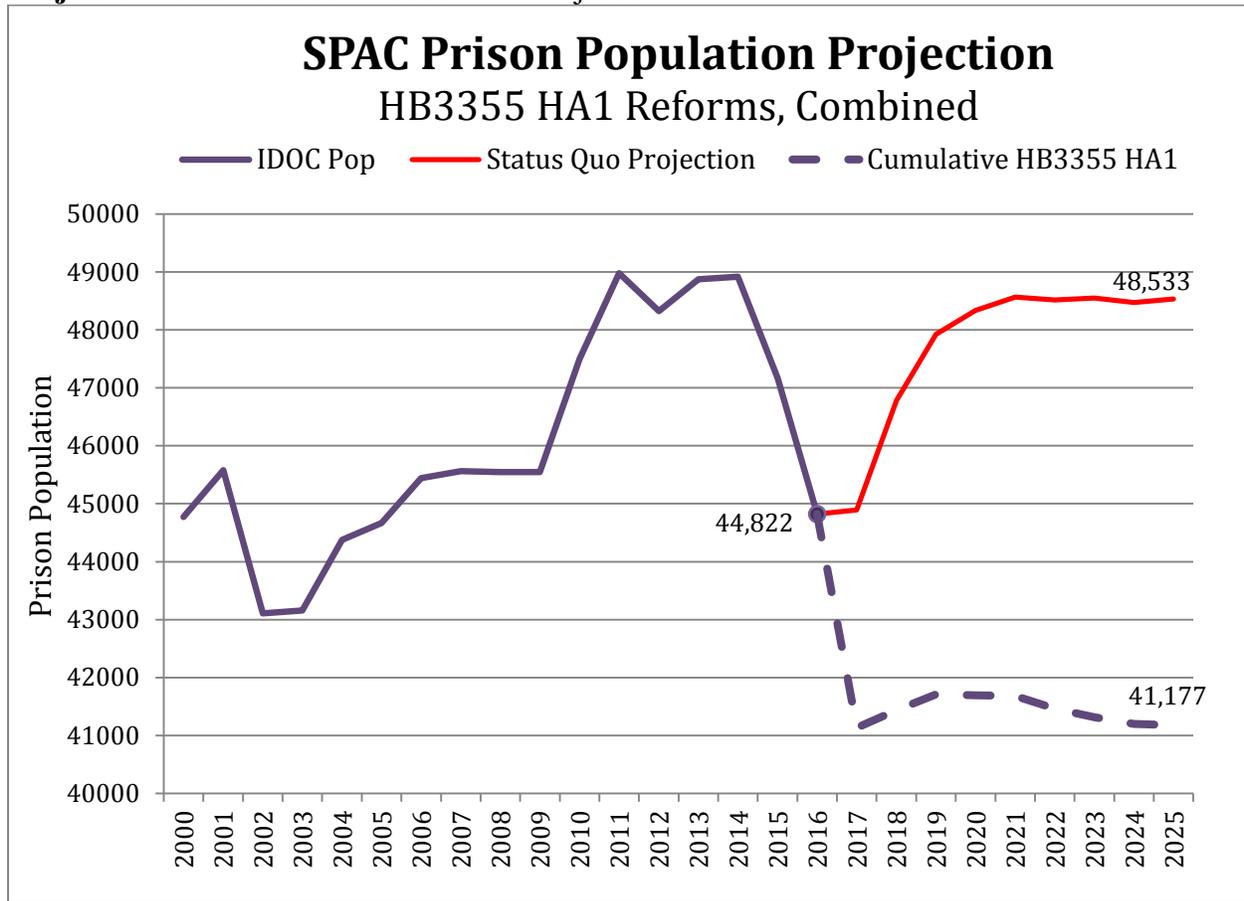
¹ SPAC Victimization Supplement, 2015, available at: http://www.icjia.state.il.us/spac/pdf/Victimization_Supplement_0415.pdf.

² SPAC Quantifying County Adult Criminal Justice Costs in Illinois, 2016, available at: http://www.icjia.state.il.us/spac/pdf/Quantifying_County_Adult_Criminal_Justice_Costs_in_Illinois_120616.pdf.

³ SPAC Supplement: Dynamic Marginal Costs, 2017, available at: http://www.icjia.state.il.us/spac/pdf/Dynamic_Marginal_Costs.pdf.

SPAC PRISON POPULATION PROJECTION – CUMULATIVE

Projection 1. Cumulative HB3355 HA1 Projection



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. On June 30, 2025, the status quo projection estimates 48,533 individuals would be held in prison. The dotted line answers the what if question: If the components of HB3355 that SPAC modeled—(1) theft and retail theft reform, (2) drug offense reform, (3) truth-in-sentencing credit policy changes, (4) prohibit short-stay admissions, (5) eliminate some three-strike sentence enhancements, (6) expand probation eligibility, and (7) reduce drug offenses’ extended term enhancements—were enacted, after five years the prison population would decrease over 7,000 inmates each year as a result of the cumulative effect of these provisions. Other portions of HB3355 may decrease the prison population further. The gap between the status quo and the new policy projections shows the impact of the changes on June 30 of each year.

The projections rely on the assumption that admissions, sentences, and IDOC discretionary sentence credit awards remain consistent with the recent past, FY2014-16. The changes between the status quo and HB3355 HA1 scenario reflect the bill’s proposed sentences, probation eligibility, and sentence credit policies. 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 awards are held constant between the status quo and the cumulative impact.

The model uses the following assumptions:

1. Theft and retail theft:
 - a. HB3355 HA1 adjusts the threshold for felony theft and felony retail theft from \$300 and \$500, respectively, to \$2,000. Because of data limitations in the Criminal History Record Information system, no Illinois-specific data exist on the dollar value of stolen property. Instead, SPAC reviewed National Incident-Based Reporting System (NIBRS) data, which includes neighboring states and *the only NIBRS-compliant jurisdiction in Illinois is the Rockford Police Department*. Using these data as approximations of property crimes in Illinois, SPAC estimated that admissions would decrease by 95% for retail theft and 70% for theft.
2. Drug reform:
 - a. The felony class for each offense is adjusted according to HB3355 HA1 and a new sentence is imposed within the new range but with the same prison-term distribution across that range.
 - b. For felony offenses that become misdemeanors, the model assumes that all of those admissions are sentenced to either probation or jail because prison is not an authorized sentence for misdemeanors.
 - c. The model assumes that, for drug offenses that become probationable under HB3355 HA1, one third would receive probation rather than prison. This percentage matches current sentencing practices, as found by SPAC analysis of CHRI data.
 - d. For aggravated drug offenses, the new felony class for the base offense is used plus the average enhancement. SPAC calculates the average enhancement (approximately 9 months) by comparing current time served for manufacture and delivery offenses to the time served with enhancements (*i.e.*, delivery near a school or protected place). This method is also applied to aggravated offenses that are repealed by HB3355 HA1.
 - e. For the protected zone scenario, SPAC assumed 50% of those convicted of drug delivery near a protected zone would still be subject to the sentence enhancement under HB3355 HA1 and their sentences would remain the same. The other 50% are instead sentenced under the standard manufacture or delivery penalties.
3. Truth-in-sentencing:
 - a. For the current inmate population, SPAC assumes they would receive good-time credit under the new rules going forward only and no additional credits for time already served.
 - b. SPAC applies the TIS changes to consecutive sentences.
 - c. 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.
 - d. Current practices for revocations of good-time credit remain constant.
4. Short lengths of stay:
 - a. After a two-week admission, SPAC flags all admissions with four months or less of projected stays without considering sentence credits.

5. Habitual criminal enhancements:
 - a. SPAC identified admissions that were identified as habitual criminal offenses in IDOC's case management system and compared that to state criminal history records to determine if the prior offenses were forcible felonies. If the current admission was not a forcible felony or if the individual did not have two prior forcible felonies, the sentences were reduced:
 - i. For those with 6 year prison sentences: the minimum sentence term for the underlying felony (4 or 3 years, for Class 1 or 2 felonies, respectively).
 - ii. For those with more than 6 year prison sentences: the maximum sentence term for the underlying felony (15 or 7 years, for Class 1 or 2 felonies, respectively).
6. Expanded probation:
 - a. Additional eligibility for 710 and 1410 probation, meth specialty probation, the Offender Initiative Program, and Second Chance Probation are not included in the modeled projections due to data limitation.

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.

THEFT AND RETAIL THEFT
 720 ILCS 5/16-1 AND 720 ILCS 5/16-25
 FELONY DOLLAR VALUES FOR THEFT AND RETAIL THEFT
PROJECTED IDOC POPULATION IMPACT: -1,100 INDIVIDUALS ANNUALLY

INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

The theft and retail theft components of [HB3355 HA1](#) increase the property value threshold for felony theft and retail theft⁴ to \$2,000 and limits using prior misdemeanor offenses to enhance the sentence classification. These changes would result in fewer felony convictions, fewer admissions to the Illinois Department of Corrections (IDOC), and an increase in misdemeanor convictions.

SPAC used criminal history (CHRI) data from 2013, 2014, and 2015 to calculate the number of arrests, convictions, and probation sentences for theft and retail theft. SPAC used IDOC data from 2014, 2015, and 2016 for IDOC admissions, exits, and prison population. During the past three years, the data show:

Table 1. Theft and Retail Theft

| Three Years | | Retail Theft | Theft |
|--|-----------------|--------------|--------|
| Arrests | | 50,064 | 35,506 |
| Convictions | | 17,681 | 11,189 |
| Withheld Judgment <i>charges dismissed/judgment vacated upon successful completion of 1410, 710, or TASC probation.</i> | | 2,500 | 2,725 |
| Standard Probation | <i>Class 1</i> | - | 88 |
| | <i>Class 2</i> | 2 | 367 |
| | <i>Class 3</i> | 2,234 | 2,433 |
| | <i>Class 4</i> | 2,549 | 622 |
| | Total Probation | 7,501 | 4,927 |
| IDOC Admissions | <i>Class X</i> | - | 8 |
| | <i>Class 1</i> | - | 63 |
| | <i>Class 2</i> | 3 | 129 |
| | <i>Class 3</i> | 1,123 | 1,321 |
| | <i>Class 4</i> | 3,260 | 826 |
| Total Prison | 4,388 | 2,347 | |
| June 30, 2016 Prison Population | <i>Class X</i> | - | 8 |
| | <i>Class 1</i> | - | 44 |
| | <i>Class 2</i> | - | 52 |
| | <i>Class 3</i> | 331 | 378 |
| | <i>Class 4</i> | 521 | 181 |
| Total Prison Population | 959 | 730 | |

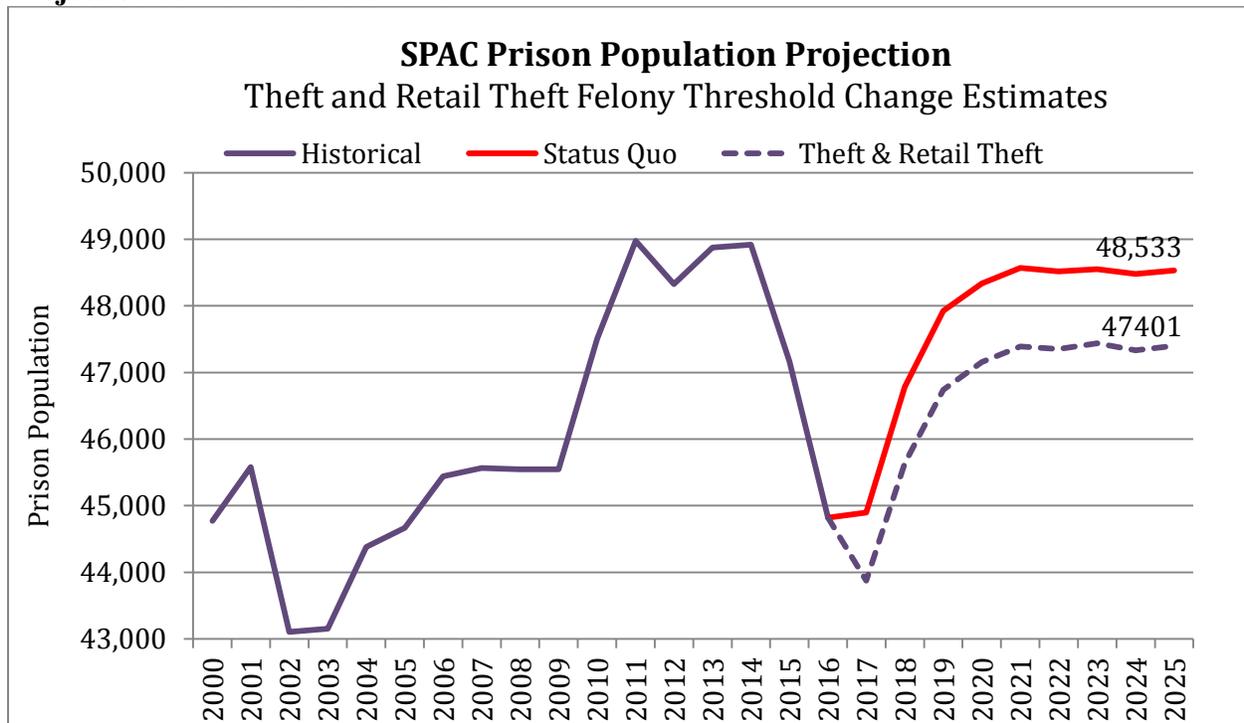
⁴ HB3355 HA1's language on theft and retail theft sentencing reforms is substantially similar to [HB3337](#), available at: <http://www.ilga.gov/legislation/100/HB/PDF/10000HB3337lv.pdf>.

| Three Years | Retail Theft | Theft |
|--|--------------|---------|
| Average Sentence Imposed | 1.8 yrs | 2.8 yrs |
| Average Pretrial Detention Time Served | 0.3 yrs | 0.4 yrs |
| Average Prison Time Served | 0.6 yrs | 0.9 yrs |

The value of the property stolen or damaged is an element of both of these offenses;⁵ however Illinois data do not include these values. SPAC uses the National Incident-Based Reporting System (NIBRS) to analyze the dollar value of property crimes.⁶ NIBRS includes data reported from Rockford, Illinois, *the only Illinois jurisdiction that reports into the NIBRS system*, and national data. NIBRS is not a reliable estimate of stolen property in the Chicago area due to a lack of reporting from major metropolitan areas. However, the national data is consistent with neighboring states’ and Rockford’s stolen property values, indicating the NIBRS dataset is sufficient to estimate property values for the urban areas outside Chicago and its suburbs. As compliance grows, more Illinois-specific information will be included and eventually SPAC will be able to use these data for full fiscal impact analyses. SPAC uses this data because (a) the dataset has the best available information on stolen property values and reflect actual crimes reported to law enforcement, (b) enough incidents are reported that outliers or data entry errors are unlikely to bias the results, and (c) the federal government, including the FBI, and the Illinois State Police are committed to further implementing NIBRS reporting across the State.

SPAC PRISON POPULATION PROJECTION – HB3355 HA1 COMPONENT

Projection 2. Theft and Retail Theft



Note: this projection assumes Illinois stolen property values are consistent with NIBRS values

⁵ 720 ILCS 5/16-1(c) and 720 ILCS 5/16-25(f)(3).

⁶ National Archive of Crime Justice Data, Uniform Crime Reporting Program Data: National Incident-Based Reporting System, 2014 (ICPSR 36398), available at <https://www.icpsr.umich.edu/icpsrweb/NACJD/studies/36398>.

1. Theft and retail theft:
 - b. HB3355 HA1 adjusts the threshold for felony theft and felony retail theft from \$300 and \$500, respectively, to \$2,000. Because of data limitations in the Criminal History Record Information system, no Illinois-specific data exist on the dollar value of stolen property. Instead, SPAC reviewed National Incident-Based Reporting System (NIBRS) data, which includes neighboring states and *the only NIBRS-compliant jurisdiction in Illinois is the Rockford Police Department*. Using these data as approximations of property crimes in Illinois, SPAC estimated that admissions would decrease by 95% for retail theft and 70% for theft.
 - a. The projection relies on national NIBRS data, which includes only one Illinois jurisdiction. Due to lack of other data sources, SPAC assumes the national data is consistent with Illinois property values to provide an estimate of potential impact. SPAC uses the midpoint between the national average and the average value in Rockford, Illinois. **Because of the NIBRS data gaps for metropolitan areas and Illinois generally, this estimate may either over- or underestimate the impact of these proposals.**

THEFT 720 ILCS 5/16-1

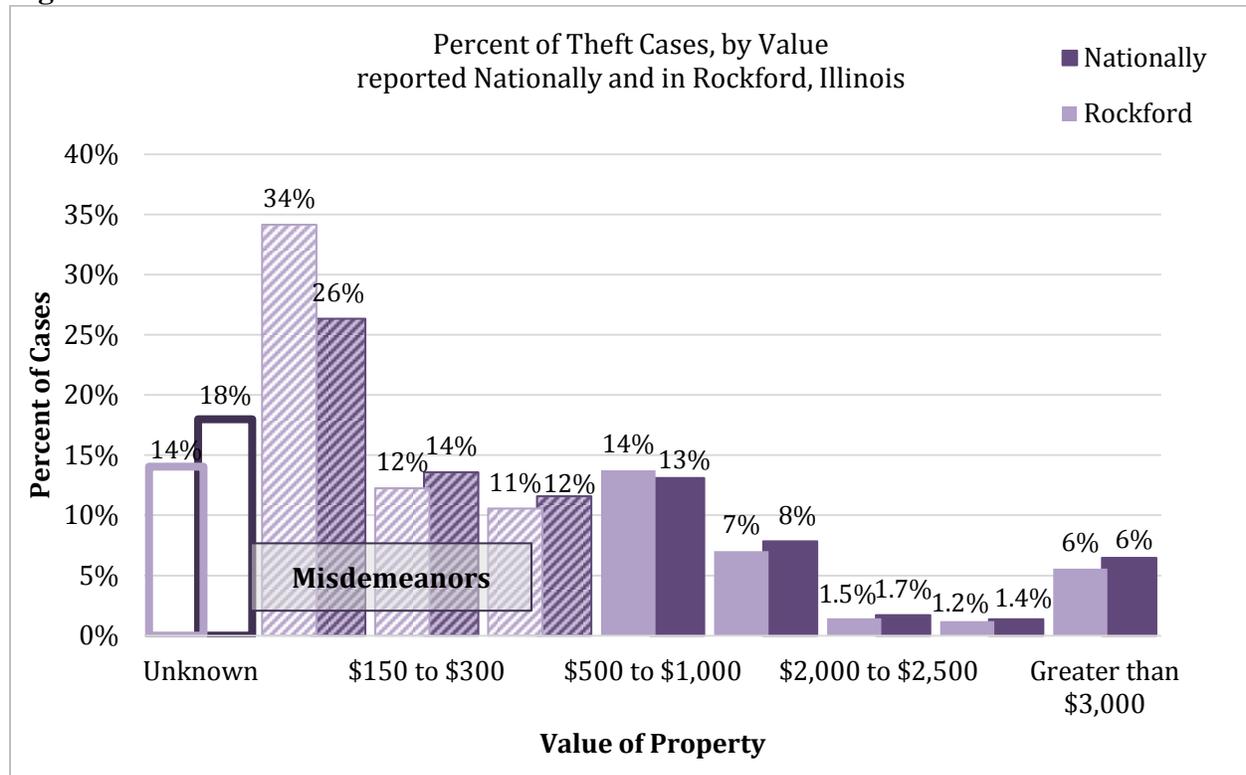
Under current law, most thefts for items valued at less than \$500 are classified as misdemeanors. Analysis of NIBRS data shows that roughly 46% of thefts are for items valued at less than \$500. HB3355 HA1 increases the property value thresholds, which increases the number of offenses that would be classified as misdemeanors and decreases the number of incarcerated individuals convicted under a Class 4 felony. Analysis of NIBRS data reported in Rockford, Illinois shows:

- For HB3355 HA1, 21% of known theft incidents fall between \$500 and \$2,000 in property stolen.
- 14% of cases in the dataset have unknown property values. Unknown cases are due to missing, unreported values, or data errors.

Factors other than the value of the property determine whether theft classifies as a felony or misdemeanor under Illinois law. The estimates above assume that the reported values in NIBRS are consistent with the value that could be proven during trial and that other factors are not present. Because other factors are relevant under Illinois law, SPAC could not accurately determine the fiscal impact of changing the value threshold for theft offenses.

The thefts in Rockford follow the national distribution and closely match neighboring states' NIBRS-reported values of stolen property. The chart below shows the national and Illinois theft distributions.

Figure 1. Theft Cases in NIBRS



RETAIL THEFT
720 ILCS 5/16-25

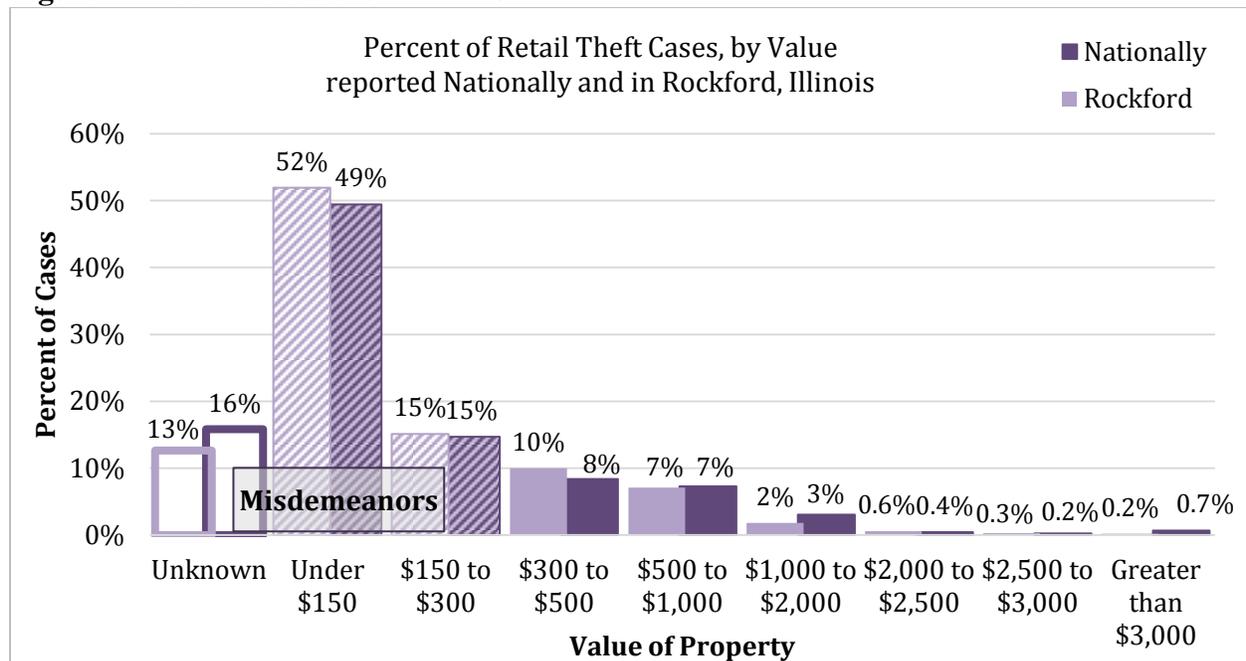
Under current law, most retail thefts for items valued at less than \$300 are classified as misdemeanors. Analysis of NIBRS data shows that roughly 67% of retail thefts are for items valued at less than \$300. HB3355 HA1 increases the property value thresholds for a felony, which decreases the number of individuals that would be convicted of Class 4 felonies and increases the number of offenses that would be classified as misdemeanors. Analysis of NIBRS data reported in Rockford, Illinois shows:

- For HB3355 HA1, 19% of known theft incidents fall between \$300 and \$2,000 in property stolen.
- 13% of cases in the dataset have unknown property values. Unknown cases are due to missing, unreported values, or data errors.

Factors other than the value of the property determine whether retail theft classifies as a felony or misdemeanor under Illinois law. The estimates above assume that the reported values in NIBRS are consistent with the value that could be proven during trial and that other factors are not present. Because other factors, such as criminal history or whether an emergency exit is used, are relevant under Illinois law, SPAC could not determine the fiscal impact of changing the value threshold for retail theft offenses.

The retail thefts in Rockford follow the national distribution and closely match neighboring states' NIBRS-reported values. The chart below shows the national and Illinois retail theft distributions.

Figure 2. Retail Theft Cases in NIBRS



DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION

Race is self-identified upon admission to prison. The “Other” includes Hispanic, Asian/Island Pacific, Native American, and Unknown races. Note: admissions to prison for criminal damage to property are not displayed here because so few cases occurred over the past three years.

Table 1. Past Three Years Admissions to IDOC for **Theft** by Race & Gender

| | Male | Female | Total | Percent |
|--------------|------------|------------|--------------|-------------|
| White | 914 | 202 | 1,116 | 48% |
| Black | 976 | 91 | 1,067 | 45% |
| Other | 150 | 4 | 154 | 7% |
| Total | 87% | 13% | 2,347 | 100% |

Table 2. Past Three Years Admissions to IDOC for **Retail Theft** by Race & Gender

| | Male | Female | Total | Percent |
|--------------|------------|------------|--------------|-------------|
| White | 1,005 | 437 | 1,442 | 33% |
| Black | 2,019 | 558 | 2,577 | 59% |
| Other | 289 | 4 | 293 | 7% |
| Total | 76% | 24% | 4,388 | 100% |

Table 3. Race by Geographic Region over the Past Three Years for **Theft**

| | Cook | Collar | Urban | Rural | Percent |
|--------------|------------|------------|------------|------------|--------------|
| White | 158 | 194 | 316 | 448 | 48% |
| Black | 601 | 180 | 228 | 58 | 45% |
| Other | 92 | 55 | 10 | 8 | 7% |
| Total | 36% | 18% | 24% | 22% | 2,347 |

Table 4. Race by Geographic Region over the Past Three Years for **Retail Theft**

| | Cook | Collar | Urban | Rural | Percent |
|--------------|------------|------------|------------|------------|--------------|
| White | 482 | 215 | 428 | 317 | 33% |
| Black | 1,828 | 245 | 397 | 107 | 59% |
| Other | 288 | 44 | 20 | 17 | 8% |
| Total | 59% | 11% | 19% | 10% | 4,388 |

Table 5. Top 10 Admitting Counties over the Past Three Years for **Theft**

| County | Number of Admissions | Percent |
|--------------|----------------------|-------------|
| Cook | 851 | 36.3% |
| Lake | 137 | 5.8% |
| Will | 123 | 5.2% |
| DuPage | 108 | 4.6% |
| Champaign | 93 | 4.0% |
| Sangamon | 69 | 2.9% |
| Madison | 64 | 2.7% |
| Winnebago | 56 | 2.4% |
| Peoria | 52 | 2.2% |
| St. Clair | 52 | 2.2% |
| Other | 742 | 31.6% |
| Total | 2,347 | 100% |

Table 6. Top 10 Admitting Counties over the Past Three Years for **Retail Theft**

| County | Number of Admissions | Percent |
|---------------|-----------------------------|----------------|
| Cook | 2,598 | 59.2% |
| Champaign | 74 | 1.7% |
| Adams | 37 | 0.8% |
| Clinton | 23 | 0.5% |
| Christian | 11 | 0.3% |
| Clay | 7 | 0.2% |
| Boone | 6 | 0.1% |
| Alexander | 3 | 0.1% |
| Bond | 2 | 0.0% |
| Bureau | 2 | 0.0% |
| Other | 1,625 | 37.0% |
| Total | 4,388 | 100% |

DRUG OFFENSE REFORM

720 ILCS 550, 720 ILCS 570, AND 720 ILCS 646
 CHANGES TO PENALTIES FOR DRUG CRIMES: CANNABIS CONTROL ACT,
 CONTROLLED SUBSTANCES ACT, AND METHAMPHETAMINE ACT
PROJECTED IDOC POPULATION IMPACT: -5,000 INDIVIDUALS ANNUALLY

TOTAL BENEFITS IN REDUCED FISCAL COSTS OVER THREE YEARS: \$332.9 million
TOTAL VICTIMIZATION COSTS FOR PROPOSED CHANGES OVER THREE YEARS: \$10.4 million

NET BENEFITS (BENEFITS MINUS COSTS): \$322.5 million

Table 2. Benefits and Costs of Drug Reforms

| Act | Statute Description | Current Costs | Proposed Costs | Current Costs minus Proposed Costs | Victimization Costs | Total Benefits* |
|---|-------------------------------------|----------------------|----------------------|------------------------------------|----------------------|----------------------|
| Controlled Substances 720 ILCS 570 | Possession of Controlled Substance | \$157,400,555 | \$16,091,954 | \$141,308,601 | -\$4,615,901 | \$136,692,700 |
| | Manufacture/Delivery or Trafficking | \$336,402,426 | \$222,477,446 | \$113,924,980 | -\$3,521,871 | \$110,403,109 |
| Methamphetamine Control and Community Protection 720 ILCS 646 | Possession of Methamphetamine | \$24,127,859 | \$1,993,531 | \$22,134,329 | -\$609,763 | \$21,524,566 |
| | Manufacture/Delivery or Trafficking | \$71,063,264 | \$36,809,804 | \$34,253,460 | -\$1,046,332 | \$33,207,127 |
| Cannabis Control 720 ILCS 550 | Possession of Cannabis | \$10,163,143 | \$3,277,298 | \$6,885,845 | -\$200,353 | \$6,685,492 |
| | Manufacture/Delivery or Trafficking | \$30,995,837 | \$16,575,700 | \$14,420,137 | -\$434,221 | \$13,985,915 |
| TOTAL | | \$630,153,084 | \$297,225,733 | \$332,927,351 | -\$10,428,442 | \$322,498,909 |
| <small>* Total Benefits are the costs avoided (Current costs) minus the costs that would have occurred had the legislation been in effect (Proposed costs) and the change in crime due to the policy (Victimization Costs). Victimization costs are the costs of crime borne by the individuals harmed by criminal conduct.</small> | | | | | | |
| <small>Source: CHRI and IDOC data, SPAC calculations</small> | | | | | | |

This component of [HB3355 HA1](#) (1) reduces the felony class one level for possession and manufacture and delivery of any substance covered by the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act, (2) amends the Unified Code of Corrections to make certain crimes eligible for probation, and (3) makes some changes to habitual criminal laws, protected zone enhancements, and trafficking penalties.⁷ This fiscal analysis focuses on the changes to prison admissions and lengths of stay in prison. Additional impacts from modifying the petty cannabis ticket amounts, changes to habitual criminal statutes, and procedural policy changes are not included at this time. A full table of all the changes is in Appendix C on page 15.

HB3355 HA1 impacts the current resource use in IDOC by (A) reducing the length of stay for all drug sentences in prison; (B) reducing some felonies to misdemeanors, precluding admission to IDOC; and (C) allowing probation for current-Class X drug offenses which affects the probability of being incarcerated. The combined effect of these changes decreases the prison

⁷ HB3355 HA1's language on drug offense sentencing reforms is substantially similar to [HB3235](#), available at: <http://www.ilga.gov/legislation/100/HB/PDF/10000HB3235lv.pdf>.

resources used for drug offenders. These effects are used to calculate the cost to the system had this measure been in effect for the past three fiscal years.

Table 3. Total Change in Costs over Three Years

| Change in: | Three Year Value of Benefits |
|----------------------------|------------------------------|
| Local Detention Benefits | \$6,398,538 |
| Local Probation Benefits | -\$18,683,384 |
| Total Local Costs Avoided | -\$12,284,846 |
| State Prison Benefits | \$314,105,349 |
| State MSR Benefits | \$31,106,848 |
| Total State Costs Avoided | \$345,212,197 |
| Total Costs Avoided | \$332,927,351 |
| Victim Costs | -\$10,428,442 |
| Total Benefits | \$322,498,909 |

Table 3. Total Change in Costs over Three Years shows where the benefits and costs occur in the system. IDOC would avoid \$314 million in prison costs and \$31 million in supervision costs over three years, whereas local governments would see an increase in probation caseloads (\$19 million in additional supervision costs) and a decrease in pretrial detention jail populations (\$6 million in costs avoided), causing a net \$12 million in additional costs over three years.

The reduction in prison sentences would also reduce incapacitation periods and return offenders to their communities at a younger age, both of

which are associated with increases in offending. Using Illinois-specific data on the recidivism rates and patterns of drug offenders, SPAC estimated this impact would increase victim costs by \$10 million over three years.

The total net benefits of HB3355 HA1 are \$322.5 million over three years. To derive this number, SPAC used criminal history (CHRI) data from 2013, 2014, and 2015 and IDOC data from 2014, 2015, and 2016 for IDOC admissions, exits, and prison population. The total number of people impacted is shown below.

Table 4. Number of Individuals Impacted by HB3355 HA1

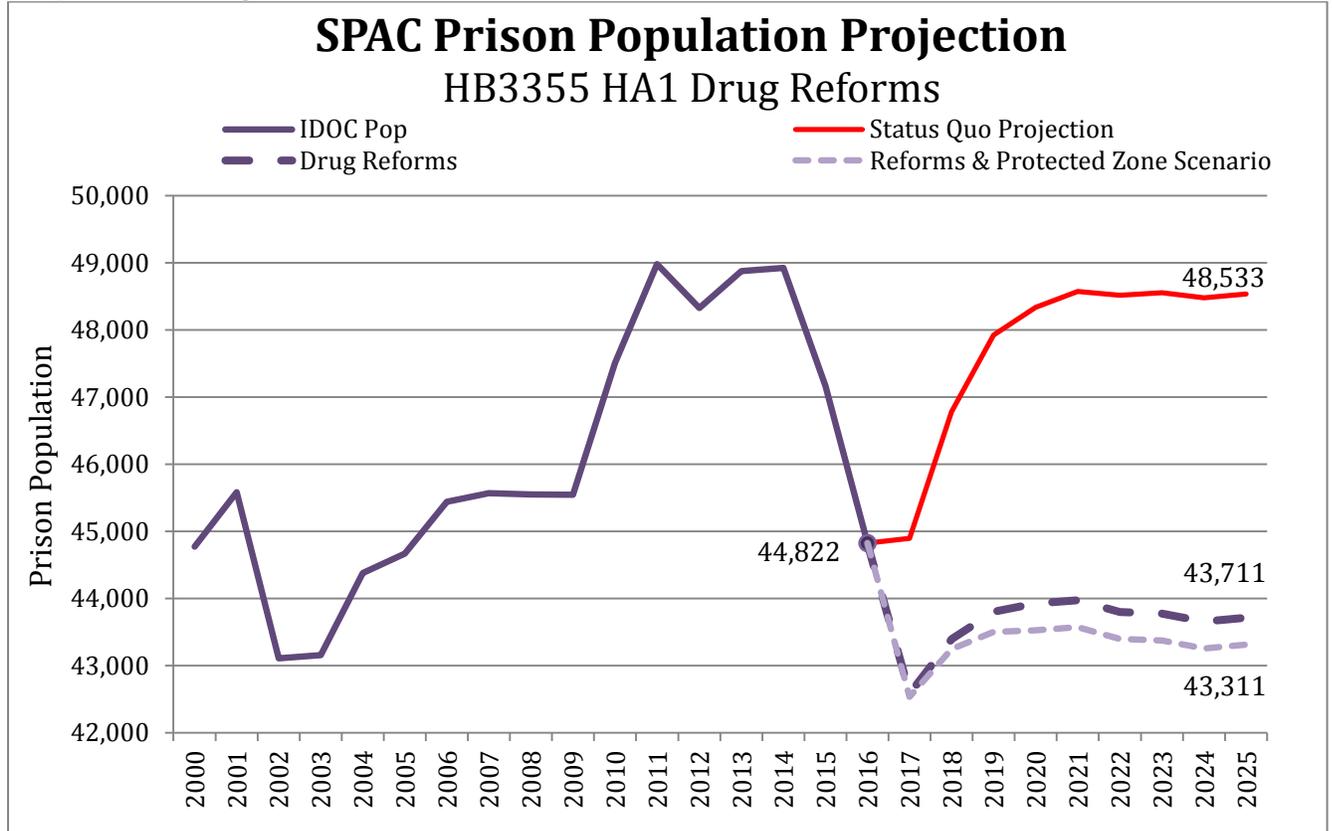
| Act | Statutory Citations | Arrested | Convicted | Admitted to Prison |
|--|----------------------|----------------|---------------|--------------------|
| Controlled Substances | 720 ILCS 570 et seq. | 83,302 | 28,632 | 14,077 |
| Methamphetamine Control and Community Protection | 720 ILCS 646 et seq. | 5,495 | 2,858 | 1,838 |
| Cannabis Control | 720 ILCS 550 et seq. | 115,660 | 12,712 | 1,655 |
| TOTAL | | 204,457 | 44,202 | 17,570 |

* The reported numbers are SPAC analysis of state CHRI data over three years. The reported arrests and convictions depend on local jurisdictions accurately reporting their data.

* In addition to convictions, some individuals arrested receive withheld judgment dispositions with the opportunity to have the record eliminated after completion of a set term. The reported numbers above are only for final dispositions and do not include 1410 or 710 probation outcomes.

SPAC PRISON POPULATION PROJECTION – HB3355 HA1 COMPONENT

Projection 3. Drug Offense Reform



On June 30, 2025, the status quo projection estimates 48,533 individuals would be held in prison. The dotted lines answer the what if question: If HB3355 HA1 were enacted, there would be over 5,000 fewer inmates in prison compared to the status quo on June 30, 2025. The lower dotted line represents a scenario that assumes 50% of those convicted of drug delivery near a protected zone, such as a school or park, would still be subject to the sentence enhancement under HB3355 HA1 while the other 50% would instead be sentenced under the standard manufacture or delivery penalties. The gap between the status quo and the new policy projections shows the impact of the changes on June 30 of each year.

1. Drug reform:

- a. The felony class for each offense is adjusted according to HB3355 HA1 and a new sentence is imposed within the new range but with the same prison-term distribution across that range.
- b. For felony offenses that become misdemeanors, the model assumes that all of those admissions are sentenced to either probation or jail because prison is not an authorized sentence for misdemeanors.
- c. The model assumes that, for drug offenses that become probationable under HB3355 HA1, one third would receive probation rather than prison. This percentage matches current sentencing practices, as found by SPAC analysis of CHRI data.

- d. For aggravated drug offenses, the new felony class for the base offense is used plus the average enhancement. SPAC calculates the average enhancement by comparing current time served for manufacture and delivery offenses to the time served by those with enhancements (*i.e.*, delivery near a school or protected place) and is approximately 9 months. This method is also applied to aggravated offenses that are repealed by HB3355 HA1.
- e. For the protected zone scenario, SPAC assumed 50% of those convicted of drug delivery near a protected zone would still be subject to the sentence enhancement under HB3355 HA1 and their sentences would remain the same. The other 50% are instead sentenced under the standard manufacture or delivery penalties.

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.

DRUG OFFENSE REFORM FISCAL IMPACT ANALYSIS

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). **Importantly, preliminary analysis of the Criminal History Record Information (CHRI) data shows that some counties may not be reporting misdemeanor convictions or felony prison sentences to the State and the extent of the underreporting is unknown** until a data-integrity audit can be completed by the Illinois Criminal Justice Information Authority. SPAC accounted for the lack of felony prison sentences by analyzing IDOC data for FY2014-16. Misdemeanor convictions and sentences, however, are more uncertain for several large counties. Lacking these data, the impact on local jails and probation departments may be understated. The numbers shown here are based on the best available information, but **the limitations require caution**.

Table 5 shows the number of admissions to prison over three years and the expected annual bed-years of resources available due to HB3355 HA1. A bed-year is the resources consumed by an individual who spends 365 days in IDOC. The largest bed-year change is from the reduction to the controlled substance manufacture and delivery offenses, decreasing the overall incarceration beds required for these offenders by over 3,000 each year.

Table 5. Impact on Incarceration Resources

| Act | Statute Description | Number Admitted to Prison over Three Years | Current Average Time Incarcerated | Proposed Average Time Incarcerated | Average Change in Years Incarcerated | Bed-Year Change Over Three Years | Annual Change in Bed-Years |
|--|-------------------------------------|--|-----------------------------------|------------------------------------|--------------------------------------|----------------------------------|----------------------------|
| | | N | L | L' | L-L'=D | N x D = BY | BY/3 = BY' |
| Controlled Substances | Possession of Controlled Substance | 7,949 | 1.11 | 0.34 | 0.77 | 6,146 | 2,049 |
| | Manufacture/Delivery or Trafficking | 6,128 | 2.49 | 1.73 | 0.77 | 4,688 | 1,563 |
| Methamphetamine Control and Community Protection | Possession of Methamphetamine | 674 | 1.54 | 0.34 | 1.20 | 810 | 270 |
| | Manufacture/Delivery or Trafficking | 1,164 | 2.51 | 1.31 | 1.19 | 1,391 | 464 |
| Cannabis Control | Possession of Cannabis | 568 | 0.95 | 0.48 | 0.47 | 267 | 89 |
| | Manufacture/Delivery or Trafficking | 1,087 | 1.35 | 0.81 | 0.53 | 579 | 193 |
| TOTAL | | 17,570 | | | | 13,881 | 4,627 |

LIMITATIONS AND ASSUMPTIONS:

- SPAC did not estimate the effects on probation due to decreased felony classifications and, potentially, shorter probation sentences. SPAC focused this analysis on the most resource intensive cases affected by the proposal: those individuals admitted to prison.
- For many offenses, the MSR supervision period may be shorter due to the lower felony class, including no MSR if the felony is reduced to a misdemeanor. SPAC uses the average MSR terms for drug offenders by felony class and adjusts the expected average length of the new class.
- For sentence enhancements that permit extended prison terms (*e.g.*, double the maximum or the minimum plus the maximum of the base offense's range), SPAC used the current difference between the average sentence lengths of the base offense and the extended terms as an estimate of how large the enhancement would be under HB3355 HA1. This approach conservatively assumes the average enhancement will be equally as large as current practice, even though the maximum possible prison term would be lower under HB3355 HA1.
- For offenses made eligible for probation by this proposal, SPAC assumes that approximately one third would receive probation. This estimate is from an analysis of CHRI that showed approximately 33% of Class 1 felons received probation. The percentage increased for each lower felony class, which means SPAC's estimate may underestimate the additional costs for local probation departments and underestimate the costs avoided for IDOC.
- For felony offenses that become misdemeanors, SPAC estimates 50% would receive probation and 50% would receive 6 months of jail time on average.
- In calculating pretrial detention periods, SPAC has found a correlation between the length of pretrial detention and the length of the prison sentence. For each additional year of prison, there was a 29-day change in pretrial detention length. Consequently, SPAC adjusts the expected jail time by 29 days per year based on the higher or lower prison sentences caused by the bill.
- For crimes with admissions to prison over the past three years but no releases, SPAC uses the average pretrial detention and sentence length for those crimes. This calculation occurs in few cases but improves the overall estimate by accounting for all drug admissions.

- Based on information from past probation studies, SPAC uses the average cost of probation of \$1,900 per offender per year. Drug offenders, however, may be sentenced to more expensive supervision environments, including drug treatment, drug courts, and intensive supervision. These additional costs are not included.
- Additional impacts from procedural changes to the criminal and corrections codes are not included. For example:
 - Possession of less than an ounce of cannabis becomes a ticketable offense under this proposal. The revenue generated and the administrative costs of this portion of the proposal are not included. For estimates of petty offense revenue from other cannabis revisions, please see SPAC’s website for past fiscal impact analyses: <http://www.icjia.state.il.us/spac/index.cfm?metasection=publications>
 - Some extended terms are eliminated. The cost implications of this reform are included as part of the expected average lengths of stay. However, the true impact depends upon prosecutorial and judicial decisions about sentencing as some extended terms would be discretionary.
- For purposes of this report, “extended terms” is defined as any sentence range that is beyond the statutory range for the felony class, including longer sentences designated in the offense statute. These sentences are sometimes referred to “Super Class X” or “Super Class 1.”

IMPACTS OF PROPOSED LEGISLATION ON STATE PRISONS AND SUPERVISION:

\$332.9 million

Avoided costs over three years.

This is the estimated total costs to IDOC that would have been avoided had these policies been in place from 2014 through 2016. The avoided costs are due to (a) felony offenses being reduced to misdemeanors and (b) reduced sentences resulting in earlier release from prison. This number includes the costs avoided for IDOC’s Parole Division, an estimated \$31.1 million over three years, due to shorter MSR terms.

IMPACTS OF PROPOSED LEGISLATION ON COUNTY JAILS:

\$6.4 million

Avoided costs over three years.

Jails would see a change in their average daily population due to some felony offenses becoming misdemeanors for which offenders may be sentenced to jail. However, pretrial detention would also decrease as prison sentences overall are reduced: For each additional year of prison, SPAC has observed a 29-day increase in pretrial detention length. The relationship is also seen as sentences are reduced. Consequently, SPAC adjusts the expected jail time by 29 days per year for any higher or lower prison sentences caused by the bill. The large number of inmates receiving lower sentences, which are correlated with shorter pretrial detention periods, offsets the increase in misdemeanor jail sentences.

IMPACTS OF PROPOSED LEGISLATION ON COUNTY PROBATION:

-\$18.7 million

Additional costs over three years.

As a general rule, probation costs significantly less than prison. For this analysis, SPAC used \$1,900 per individual per year as the average cost of probation based on information provided by the Administrative Office of the Illinois Courts (AOIC) for fiscal year 2013. Statewide, costs are increased due to more offenders being eligible for probation and sentenced to probation rather than sentenced to prison. SPAC conservatively assumes one out of every three Class X drug offenders would have been sentenced to probation under the proposal. This estimate is based on the current percent of probation sentences for Class 1 felonies. For felony offenses that become misdemeanors, SPAC assumes 50% of these cases would instead receive two year probation sentences. For all other offenses, SPAC did not include the increases in probation sentences due to lack of data. Further, due to lack of data on how judges would sentence individuals after the change, SPAC also did not include any specialty programming costs, such as drug courts or drug treatment.

IMPACTS OF PROPOSED LEGISLATION ON VICTIMS AND COMMUNITIES:

-\$10.4 million

Additional costs over three years.

Diverting offenders from prison and reducing length of stay through the proposed changes to penalties 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 estimates the total dollar value of victimization costs due to a shorter incapacitation period for these offenders. 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.⁸ The SPAC Victimization Supplement fully explains this methodology:
http://www.icjia.state.il.us/spac/pdf/Victimization_Supplement_0415.pdf
 - Using Illinois data, SPAC calculated 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.
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 6**). 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

⁸ 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.

rate. SPAC applied a 3% discount rate to victimizations under the different incapacitation lengths to estimate the possible benefit of delayed crime.

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 and Higher Victimization Costs

| | | First Year Victimization Costs | Three Years Victimization Costs | Recidivism Costs | Incapacitation Costs | Total Victimization Costs |
|--|-------------------------------------|--------------------------------|---------------------------------|---------------------|----------------------|---------------------------|
| Controlled Substances | Possession of Controlled Substance | \$7,342 | \$35,901 | -\$3,266,628 | -\$1,349,274 | -\$4,615,901 |
| | Manufacture/Delivery or Trafficking | | | -\$2,491,677 | -\$1,030,194 | -\$3,521,871 |
| Methamphetamine Control and Community Protection | Possession of Methamphetamine | | | -\$430,718 | -\$179,045 | -\$609,763 |
| | Manufacture/Delivery or Trafficking | | | -\$739,105 | -\$307,228 | -\$1,046,332 |
| Cannabis Control | Possession of Cannabis | | | -\$141,974 | -\$58,379 | -\$200,353 |
| | Manufacture/Delivery or Trafficking | | | -\$307,611 | -\$126,610 | -\$434,221 |
| TOTAL | | \$7,342 | \$35,901 | -\$7,377,712 | -\$3,050,730 | -\$10,428,442 |

DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

National research indicates that drug use occurs at nearly equivalent rates among different racial and ethnic groups.⁹ Despite similar drug use patterns, the demographics of individuals arrested and prosecuted pursuant to the Cannabis Control Act is not representative of the Illinois general population, nor is it consistent with the drug use habits established by the national research. The tables below illustrate the racial composition of arrests, convictions, and IDOC admissions for the past three years.¹⁰ The other category includes all admissions where the reported race of the individual was neither Black nor White.

⁹ SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2011 and 2012.

¹⁰ Please note that some CHRI data on arrests and convictions may be missing. The data presented are the best available to SPAC, as recorded by statewide administrative data systems.

Table 7. Demographics of Arrest

| Controlled Substances Act | | | | | Meth Control and Community Protection Act | | | | | Cannabis Control Act | | | | |
|---------------------------|---------------|---------------|--------------|----------------|---|------------|--------------|------------|---------------|----------------------|---------------|---------------|--------------|----------------|
| Arrest Year | Black | White | Other | Total Arrests | Arrest Year | Black | White | Other | Total Arrests | Arrest Year | Black | White | Other | Total Arrests |
| 2012 | 57% | 42% | 1% | 28,608 | 2012 | 4% | 94% | 2% | 1,376 | 2012 | 57% | 42% | 1% | 44,698 |
| 2013 | 58% | 41% | 1% | 29,541 | 2013 | 4% | 94% | 1% | 1,577 | 2013 | 57% | 42% | 1% | 43,517 |
| 2014 | 56% | 42% | 2% | 27,310 | 2014 | 3% | 95% | 1% | 1,801 | 2014 | 54% | 44% | 2% | 38,740 |
| 2015 | 53% | 35% | 11% | 26,451 | 2015 | 3% | 93% | 3% | 2,117 | 2015 | 53% | 32% | 15% | 33,403 |
| Average | 56% | 40% | 4% | | Average | 4% | 94% | 2% | | Average | 55% | 40% | 5% | |
| Total | 62,755 | 45,084 | 4,071 | 111,910 | Total | 251 | 6,470 | 150 | 6,871 | Total | 88,691 | 64,382 | 7,285 | 160,358 |

Table 8. Demographics of Convictions

| Controlled Substances Act | | | | | Meth Control and Community Protection Act | | | | | Cannabis Control Act | | | | |
|---------------------------|---------------|---------------|------------|-------------------|---|------------|--------------|-------|-------------------|----------------------|--------------|--------------|------------|-------------------|
| Conviction Year | Black | White | Other | Total Convictions | Conviction Year | Black | White | Other | Total Convictions | Conviction Year | Black | White | Other | Total Convictions |
| 2012 | 62% | 36% | 1% | 11,313 | 2012 | 3% | 97% | | 799 | 2012 | 48% | 50% | 2% | 5,207 |
| 2013 | 62% | 37% | 1% | 9,267 | 2013 | 4% | 96% | | 819 | 2013 | 49% | 49% | 2% | 4,779 |
| 2014 | 62% | 37% | 1% | 10,278 | 2014 | 3% | 97% | | 1,002 | 2014 | 50% | 48% | 2% | 4,317 |
| 2015 | 61% | 35% | 4% | 9,087 | 2015 | 3% | 97% | | 1,037 | 2015 | 46% | 48% | 6% | 3,616 |
| Average | 62% | 36% | 2% | | Average | 4% | 96% | | | Average | 49% | 49% | 3% | |
| Total | 24,648 | 14,537 | 760 | 39,945 | Total | 128 | 3,529 | | 3,657 | Total | 8,693 | 8,732 | 494 | 17,919 |

Table 9. Three Years Admissions to Prison by Race

| Act | Black | White | Other | Total |
|--|---------------|--------------|--------------|---------------|
| Controlled Substances | 10,308 | 2,703 | 1,204 | 14,215 |
| | 73% | 19% | 9% | 100% |
| Cannabis Control | 1,038 | 400 | 236 | 1,674 |
| | 62% | 24% | 14% | 100% |
| Methamphetamine Control and Community Protection | 54 | 1,810 | 45 | 1,909 |
| | 3% | 95% | 2% | 100% |
| Total | 11,400 | 4,913 | 1,485 | 17,798 |
| | 64% | 28% | 8% | 100% |

Please note: totals differ from cases analyzed due to data limitations.

Table 10. Three Years Admissions to Prison by Gender

| Act | Male | Female | Total |
|--|---------------|--------------|---------------|
| Controlled Substances | 12,580 | 1,635 | 14,215 |
| | 88% | 12% | 100% |
| Cannabis Control | 1,613 | 61 | 1,674 |
| | 96% | 4% | 100% |
| Methamphetamine Control and Community Protection | 1,492 | 417 | 1,909 |
| | 78% | 22% | 100% |
| Total | 15,685 | 2,113 | 17,798 |
| | 88% | 12% | 100% |

Table 11. Three Years Admissions to Prison by Geography

| Act | Cook | Collar | Urban | Rural | Total |
|---|--------------|---------------|--------------|--------------|---------------|
| Controlled Substances | 9,091 | 1,681 | 2,002 | 1,441 | 14,215 |
| | 64% | 12% | 14% | 10% | 100% |
| Cannabis Control | 858 | 212 | 301 | 303 | 1,674 |
| | 51% | 13% | 18% | 18% | 100% |
| Methamphetamine Control and Community Protection | 37 | 35 | 396 | 1,441 | 1,909 |
| | 2% | 2% | 21% | 75% | 100% |
| Total | 9,986 | 1,928 | 2,699 | 3,185 | 17,798 |
| | 56% | 11% | 15% | 18% | 100% |

**OTHER UNKNOWN IMPACTS OF PROPOSED LEGISLATION:
LAW ENFORCEMENT AND THE JUDICIAL SYSTEM.**

Due to insufficient data, SPAC was unable to reliably estimate the impact of this proposal on either law enforcement activities or the judicial system.

CHANGES TO MANDATORY SUPERVISED RELEASE TERMS

730 ILCS 5/3-3-8 AND 730 ILCS 5/5-8-1

REDUCTION OF USUAL TERM OF SUPERVISION FOR FELONIES

PROJECTED IDOC POPULATION IMPACT: **N/A**

INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

[HB3355 HA1](#) reduces the maximum Mandatory Supervised Release (MSR) period for most offenders released from prison to 18 months.¹¹ MSR is the statutory supervision period for offenders leaving prison served before completion of the sentence. MSR terms are set by statute, based felony class: 12 months for Class 3 & 4, 24 months for Class 1 & 2, and 36 months for Class X and murder. SPAC research indicates that most recidivism occurs within the first 18 months of release. Currently, nearly 70% of those who return to prison will return within 18 months for either a violation of MSR conditions (including new arrest) or for a new convocation. Of those returning after 18 months, most are for a new sentence (80% are for a new conviction and prison sentence).

This analysis used IDOC exit records from FY2010-12 to track the first reincarceration event over the following three years, allowing reincarceration as late as 6/30/2015. Those offenders who were admitted for a technical violation and exited in FY2010-12 are excluded from this analysis.¹² This provided everyone in the sample with at least three years to recidivate. Overall, 50.3% returned to prison at least once during the follow-up period. This number is higher than official recidivism statistics due to a longer follow-up period for much of the sample.

Table 12. Reincarceration of New Court Exits from IDOC, FY10-12

| First recidivism readmission type | Number of exits | Percent of exits |
|-----------------------------------|-----------------|------------------|
| Return | 33,696 | 50.3% |
| Discharged and recommitted | 8,748 | 13.0% |
| New sentence while on MSR | 5,077 | 7.6% |
| Technical MSR violator | 19,314 | 28.8% |
| Other | 557 | 0.8% |
| No return | 33,345 | 49.7% |

In the data above, 34,000 prison exits are analyzed to determine the type of recidivism readmission. The readmissions could be (1) recommitted after the previous sentence was discharged, (2) a new sentence while on MSR, or (3) a technical MSR violator. These types of readmission make up 98% of the recidivism events. For the purpose of simplifying the analysis, the remaining 2% (0.8% of all exits) admitted on various other admission types (return additional mittimus, admit from other custody, etc.) are excluded from the analysis regarding the new hypothetical MSR terms.

¹¹ HB3355 HA1's language on MSR reforms is substantially similar to **SB1722 with Senate Amendment 1**, available at: <http://www.ilga.gov/legislation/100/SB/PDF/10000SB1722sam001.pdf>.

¹² Technical violations are violations of the terms of supervision imposed by the Prisoner Review Board such as loss of a host site, a new arrest, or failure to comply with other conditions.

First, if the technical violation or recidivism event occurs within the first 18 months, any change to MSR terms would not affect that case. Second, if the technical violation or recidivism event occurs after the new MSR term would end under the proposal, an assumption must be made on whether that individual would be prosecuted and returned to prison on a new sentence. Other than the purely technical violation readmissions, SPAC assumes that most of those cases would still return to prison on those new sentences. For technical violations, some may be prosecuted and, of those prosecuted and convicted, the new prison admission may in fact result in a longer prison term than the status quo's technical violation. For example, if a person is rearrested for a Class 4 drug offense while on MSR, the prosecutor may forego charging a new crime if the person is already returning to prison for the technical violation. If MSR lengths were shorter, then the technical violation is no longer available. The effect could be a longer stay in prison on the new sentence than the stay for readmission on a technical MSR violation.

First, SPAC examined the timing of actual reincarcerations to determine if they occurred. A large majority (87%) of those reincarcerated for a technical violation returned within 18 months.

Table 13. Reincarceration Type, FY10-12, 18 Month Maximum MSR

| Return Type | Returned within 18 months | Returned after 18 months |
|------------------------|----------------------------------|---------------------------------|
| New sentence | 4,001 (28.9%) | 9,824 (71.1%) |
| Technical MSR violator | 16,887 (87.0%) | 2,427 (13.0%) |

Second, the 13% who did return as a technical violator readmission after 18 months would no longer be eligible for this readmission type. Therefore, approximately 2,400 people over three years could be either (A) not sent back to prison or (B) subject to prosecution for a new crime and potentially returned to prison. It should be noted that data on the reasons for a revocation of MSR is not currently available, however by matching CHRI to IDOC data it is possible to see how many people were returned to IDOC following a new arrest that did not result in a new sentence. The impact of the policy change depends on the proportion receiving a new prison sentence and the length of the new sentence. Depending on implementation, the change may increase or decrease the IDOC prison population.

The median length of stay for technical violators in FY2014-16 was about five months (150 days) and the median length of stay for those discharged and recommitted was about a year (360 days). If two-thirds of those 2,400 cases were charged, convicted, and readmitted to prison for some new offense, there could be an *increase* of approximately 560 bed-years consumed for those three years.

In addition to the return rate after 18 months, the impact depends on the length of stay individuals receive for any technical violation. Currently, a violation can result in imprisonment until the discharge of the MSR term, but the average length of stay is 1,050 days. If the MSR term is reduced, the average lengths of stay for technical violators may be less than 150 days. If the typical length of stay for technical violator admissions decreases by ten percent to 135 days as a result of the lower MSR term, the net impact would be 140 fewer bed-years over three years.

In addition to a change for the prison population, this proposal would also impact the number of individuals supervised by IDOC's Parole Division. On June 30, 2014, there were 28,242 people

on parole and 4,127 people had been supervised for longer than 18 months.¹³ If parole were limited to 18 months, these individuals, or about 15% of the supervised population, might not have been discharged from IDOC supervision.

Conclusion

Overall, the impact in both scenarios varies greatly depending on the percent of offenders being recommitted and the overall change to the typical MSR violation length of stay. Oversight and close monitoring of implementation would be necessary to ensure a positive effect on reducing the IDOC prison population.

¹³ Excluding those who had been on MSR for over five years and those on parole in Illinois on an interstate compact. The calculation excludes prior parole time served on the same sentence.

TRUTH-IN-SENTENCING REFORM

730 ILCS 5/3-6-3

CHANGES TO GOOD-TIME SENTENCING CREDIT RESTRICTIONS

PROJECTED IDOC POPULATION IMPACT: **-700 TO -1,400 INDIVIDUALS ANNUALLY**

TOTAL PRESENT VALUE OF BENEFITS IN REDUCED FISCAL COSTS: between \$86 and \$129 million

TOTAL PRESENT VALUE OF VICTIMIZATION COSTS FOR PROPOSED CHANGES: \$47 million

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

NOTE: DUE TO THE LENGTH OF STAY IN PRISON FOR THESE OFFENSES, NET BENEFITS ARE NOT 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.

[HB3355 HA1](#) 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.¹⁴

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.¹⁵ This methodology produced the high and low estimates in **Table 14**.

Table 14. Truth-in-Sentencing Change in Costs

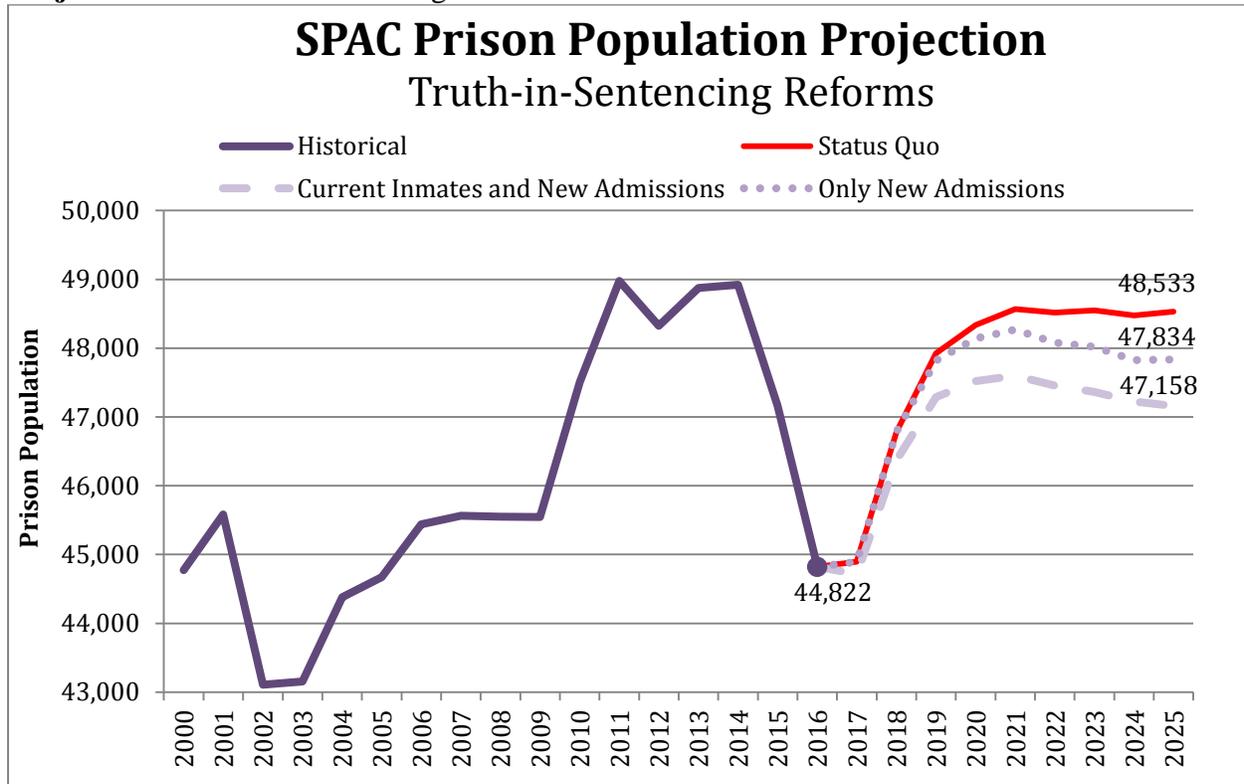
| Impact on State Costs and Public Safety | | |
|--|----------------------|----------------------|
| Reduced Bed-Years for IDOC | | 23,640 |
| Benefits: IDOC Costs Avoided | High Estimate | \$129,155,000 |
| | Low Estimate | \$85,999,000 |
| Additional Victimization Costs | | -\$46,713,000 |
| Net Benefits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

¹⁴ HB3355 HA1's language on truth-in-sentencing reform is substantially similar to **SB2882**, available at: <http://www.ilga.gov/legislation/100/HB/PDF/10000HB2882lv.pdf>.

¹⁵ 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 – HB3355 HA1 COMPONENT

Projection 4. Truth-in-Sentencing Reform



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 awards are held constant between the status quo and the two scenarios.

1. Truth-in-sentencing:

- a. Current practices for revocations of good-time credit remain constant.
- b. For the current inmate population, SPAC assumes they would receive good-time credit under the new rules going forward only and no additional credits for time already served.
- c. SPAC applies the TIS changes to consecutive sentences.
- d. 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.

TIS FISCAL IMPACT ANALYSIS

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).

Table 15 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 15. Number of Individuals Subject to Truth-in-Sentencing in IDOC

| 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 table 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 HB3355 HA1, had it been in effect for the past three years.

Table 16. Proposed Impact of TIS Reform 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.

Table 17. 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 |

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.

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 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 in prisons were older than 60 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.

DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

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 18. 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 19. 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% |

PROHIBIT PRISON USE FOR FELONS WITH SHORT LENGTHS OF STAY

730 ILCS 5/5-4-1 AND 730 ILCS 5/5-8-6

REVISING SENTENCING FOR NON-VIOLENT OFFENDERS WITH LESS THAN FOUR MONTH STAYS

PROJECTED IDOC POPULATION IMPACT: -21 INDIVIDUALS ANNUALLY

TOTAL BENEFITS IN REDUCED FISCAL COSTS OVER THREE YEARS: -\$55,828
TOTAL VICTIMIZATION COSTS FOR PROPOSED CHANGES OVER THREE YEARS: \$5,444

NET BENEFITS (BENEFITS MINUS COSTS): -\$61,272

Part of [HB3355 HA1](#) prohibits Class 3 or Class 4 non-violent felons who have fewer than four months remaining on their sentence from being confined to a penitentiary.¹⁶ The court calculates the time remaining on the sentence based only on the time served in pretrial detention. The Illinois Department of Corrections (IDOC) still has custody of these offenders but is specifically required to utilize alternatives to incarceration such as electronic home detention, an adult transition center (ATC), or another facility or program within IDOC.

Table 20. Costs and Benefits of Short-Term Reform over Three Years

| SPAC Analysis of HB 3355 | |
|--|------------------|
| Benefits from IDOC Housing Costs Avoided: Not housing offenders in state prisons | \$137,263 |
| Additional Costs for IDOC: Taxpayer costs for placement in alternative programs | \$193,090 |
| Victimization Costs: Costs of recidivism events in less supervised settings | \$5,444 |
| Net Benefit: <i>Benefits minus costs - negative net benefits are costs</i> | -\$61,272 |

Last year’s [SPAC analysis](#) of this proposal (House Bill 5666, 99th General Assembly) calculated the eligibility pool at 7,400, but that calculation factored in both pretrial detention and the expected sentence credits of one day of credit for one day of time served.¹⁷ This year, SPAC uses only the credit for time served in pretrial detention, which is specifically identified in the bill and which reduces the eligibility pool considerably, to 775 offenders.

¹⁶ HB3355 HA1’s language on short-term incarceration reforms is substantially similar to the un-amended **HB3355**, available at: <http://www.ilga.gov/legislation/100/HB/PDF/10000HB3355.pdf>.

¹⁷ The relevant language: “In imposing a sentence for a Class 3 or 4 felony, other than a violent crime..., the court shall determine and indicate in the sentencing order whether the defendant has 4 or more or fewer than 4 months remaining on his or her sentence accounting for time served.” The judge is instructed to account only for time already served and not examine potential credits awarded by IDOC. See Illinois House Bill 3355, page 12, line 12, available at: <http://www.ilga.gov/legislation/fulltext.asp?DocName=10000HB3355&GA=100&SessionId=91&DocTypeId=HB&LegID=105109&DocNum=3355&GAID=14&Session=>.

Table 20 shows the net effects of housing these offenders equally in the three alternative forms of custodial supervision. There are avoided costs of not housing these offenders in IDOC for the few days remaining on their stay, but IDOC will incur costs for the alternative forms of supervision. There may be additional costs involved in scaling up capacity of these alternatives to fit this population, but this cost is unknown and is not included in this analysis. There is also a possibility of victimizations occurring as these offenders are in the community rather than prison.

ATCs are an evidence-based practice which, when implemented with fidelity, can be expected to reduce recidivism rates for participants. Research indicates that ATC programs that produce recidivism benefits have an average duration of a year or more. The offenders diverted from penitentiary admission under this bill would be spending far shorter periods in ATCs. Thus, the \$1.73 benefits per dollar spent on ATCs found in SPAC's *Illinois Results First: A Cost-Benefit Tool for Illinois Criminal Justice Policymakers* (2016) cost-benefit report are unlikely to be realized because one of the core components of the successful programs, the time spent in the program, would not be present.

Under current laws and policies, IDOC would still process and receive each individual sentenced to their custody, which would result in no changes to intake costs.¹⁸ Depending on the custody alternatives chosen, the additional costs of housing individuals on electronic detention, in ATCs, or other programs could also vary. Some offenders' homes may not be appropriate for electronic home detention. Adult transition centers may not have sufficient bed space to accommodate individuals housed for such short stays. The third alternative, "other facility or program within IDOC," depends on IDOC's available options that fit the definition.

Table 21 below shows that 775 individuals were admitted to IDOC with fewer than four months remaining on eligible Class 3 or Class 4 non-violent felonies during the past three fiscal years. Because of these short stays, only about 284 offenders are in IDOC on any given day that would be eligible for one of the alternatives.¹⁹

Table 21. Types of Offenses Affected by Short-Term Reform

| 2014-16 Admissions, Subject to HB3355 | Frequency | Percent |
|---------------------------------------|------------|-------------|
| Possession Controlled Substance | 280 | 36% |
| UUW | 150 | 19% |
| Theft | 92 | 12% |
| DUI | 62 | 8% |
| Driving Revoked License | 50 | 7% |
| Possession Cannabis | 32 | 4% |
| Manufacture/Delivery Cannabis | 22 | 3% |
| Fleeing | 13 | 2% |
| Escape | 12 | 2% |
| Other | 62 | 8% |
| Total | 775 | 100% |

¹⁸ See 730 ILCS 5/3-2-2(1)(a) and (b).

¹⁹ On average, about 2,473 inmates would be eligible each fiscal year. With less than two months average stay in IDOC, the impact on the average daily population would be a reduction of approximately 283 inmates.

SPAC PRISON POPULATION PROJECTION – HB3355 HA1 COMPONENT

To estimate the prison population impact of this reform, SPAC flagged all admissions who, excluding time spent during two weeks admission processing, would be expected to stay for less than four months. The expected stay did not include all sentence credits, which would not be known during the initial intake processing, but they estimate day for day. On average, the impact was about 21 fewer people in prison.

SHORT-TERM STAY REFORM FISCAL IMPACT ANALYSIS

To calculate state spending on these offenses for 2014 through 2016, SPAC used IDOC data on (A) the number of admissions to prison annually that would be affected by this proposal, (B) the average length of stay in IDOC facilities for these admissions, and (C) the marginal cost of intake and housing per inmate per year. SPAC used the marginal cost figure of \$6,405 per inmate, which represents the dynamic marginal cost of adding one additional inmate for a year.²⁰ While this measure redirects over 700 offenders from IDOC over three years, the average daily prison population would drop by less than 25 offenders.

Every person sentenced to IDOC must go through the reception and classification (R&C) process at a designated facility where basic assessments of inmates' health, substance abuse issues, and education needs are completed as required by law, or by IDOC policies and procedures. See, 730 ILCS 5/3-2-2(b). The average cost of the process is \$2,000. The intake process takes an average of two to three weeks for those people who will be in prison facilities. Four of every 5 of these inmates is released directly from the R&C facility. The remaining inmates stay on average 24 days in prison. These days in prison require food, medicine, and other costs that vary with the number of inmates in custody. Using the marginal cost of prison in FY2015 (\$6,405; costs that vary by inmate), SPAC estimates \$137,000 in avoided costs from diverting these offenders to non-prison custody alternatives.

Additional Costs:

Instead of prison, HB3355 requires that inmates be placed in electronic home detention, an adult transition center, or another program. Electronic home detention has a significantly lower cost than prison (average of \$4.66 per day).²¹ Electronic home detention also requires staff time of IDOC's parole division. This cost would not be a marginal cost (vary by inmate). Because the average number of inmates transferred to electronic home detention would be small on any given day, SPAC did not include the additional staff time costs. Adult transition centers, however, have a high average cost per person (\$52 per day).²² The option to send offenders to "another facility or program within the Department of Corrections" has an unknown cost.²³

²⁰ See SPAC Supplement: Dynamic Marginal Costs, 2017, available at: http://www.icjia.state.il.us/spac/pdf/Dynamic_Marginal_Costs.pdf.

²¹ There are five different types of electronic detention: radio frequency, cellular radio frequency, group home monitoring, global-position satellite (active), and drive-by monitoring. SPAC averaged the daily rates for these five supervision types.

²² Currently, IDOC's adult transition centers are used as transitional housing for inmates released from prison. This step-down process allows inmates to gradually reintegrate into society. SPAC worked with an ATC to estimate an average cost per person, excluding administrative costs. This analysis uses this cost as an approximation of what it would cost for a judge to order an offender to an ATC instead of a prison term.

²³ Because this cost is unknown, SPAC estimates these costs are equal to the marginal cost per inmate within an IDOC facility (\$17.54 per day).

If each option is equally used, IDOC would face \$193,000 in additional costs for supervising these offenders. This estimate assumes a third of affected inmates are supervised by electronic home detention, a third in ATCs, and the remaining third to another facility. SPAC conservatively estimates equal usage of alternatives as there is no way to reliably estimate the proportion of alternatives used. The calculations also assume that the offenders would spend the same amount of time supervised by these services, or about three weeks.

If all affected inmates were sent to electronic detention, the lowest cost alternative, then this proposal would have \$36,000 in additional costs, and the overall impact of this bill would be \$101,000 in net benefits to IDOC. This outcome represents the maximum possible benefit of this proposal, although it is an unlikely possibility. Not all offenders would qualify for electronic detention. Additionally, the capacity for electronic detention would need to be expanded, the cost of which is currently unknown.

Table 22. Short-Term Reform Fiscal Impacts on IDOC

| Number of Admissions | Median Stay Minus Intake (days) | Median Length of Stay (years) | Cost for Year of Prison | Cost of Admission, Transportation, Intake |
|----------------------|---------------------------------|-------------------------------|-------------------------|---|
| 775 | 10.1 | 0.03 | \$6,405 | \$2,000 |

| Bed-Year Impact over Three Years: | Annual Intake Costs Avoided for IDOC: | Annual Housing Costs Avoided for IDOC: | Total Costs Avoided for IDOC |
|-----------------------------------|---------------------------------------|--|------------------------------|
| 21 | \$0 | \$137,263 | \$137,263 |

| Type of Program | Number Added | Average Stay (days) | Marginal Cost per Day | Additional Costs for IDOC |
|---------------------------|--------------|---------------------|-----------------------|---------------------------|
| Electronic Home Detention | 258 | 10 | \$4.66 | \$12,152 |
| Adult Transition Center | 258 | 10 | \$51.81 | \$135,184 |
| Other Facility | 258 | 10 | \$17.54 | \$45,754 |
| Total | 775 | | | \$193,090 |

LIMITATIONS AND ASSUMPTIONS:

- SPAC does not assume any agreements would be made between IDOC and jails for the costs of incarceration. IDOC could negotiate with local jails to maintain custody over inmates that are eligible under this bill.
- Because of insufficient data on where inmates would have been placed had this bill been in effect, SPAC assumes an equal proportion of inmates would receive electronic detention, adult transition centers, or another facility. For costs of these alternatives, SPAC (a) averaged known electronic detention costs, (b) used the marginal costs of an Illinois ATC, and (c) used the marginal cost for all IDOC facilities.
- SPAC does not include changes in intake costs because IDOC would still need to process offenders after sentencing. If this process were avoided, there could be larger benefits

from lower transportation costs, fewer intake hours, and fewer medical, educational, or behavioral health screenings.

- SPAC does not include the capital cost of building or acquiring more prison beds in this impact analysis. Additional costs of building or expanding adult transition centers, adding new reception and classification capacity in high-committing counties, expanding electronic detention capacity, or adding other new facilities are not included in this analysis.
- These calculations do not include the recidivism reductions from using community-based evidence-based programs. The limited amount of time supervised in the community is unlikely to be sufficient for a full program schedule.

IMPACTS OF PROPOSED LEGISLATION:

The following pages describe the impact categories that the proposed sentencing change would have on the Illinois criminal justice system.

IMPACT OF PROPOSED LEGISLATION ON STATE PRISONS:

\$55,828

Additional costs over three years.

The above estimates are the total costs to IDOC that would have been incurred had these policies been in place from 2014 through 2016. This estimate uses the annual marginal cost of \$6,405 per inmate, the marginal cost from fiscal year 2015. The avoided costs are due to fewer Class 4 and Class 3 felony offenders entering prison with short sentences. For these affected offenders, IDOC still needs to pay for alternative supervision such as electronic detention, adult transition centers, or another facility.

IMPACT OF PROPOSED LEGISLATION ON COUNTY JAILS:

N/A

Avoided costs over three years.

The proposed policy is not expected to impact length of stay in jails and therefore should not have any monetary impact on county jails.

IMPACT OF PROPOSED LEGISLATION ON PROBATION:

N/A

Avoided costs over three years.

The proposed policy does not impact utilization of probation and therefore should not have any monetary impact on probation.

IMPACT OF PROPOSED LEGISLATION ON LAW ENFORCEMENT AND JUDICIAL SYSTEM:

N/A

Avoided costs over three years.

The proposed policy does not impact utilization of law enforcement resources and therefore should not have any monetary impact on law enforcement. The calculation of sentence remaining

at time of sentencing may consume administrative resources. Due to the multitude of possibilities for implementing the administrative processing of the sentence calculation, SPAC was unable to reliably estimate the size of the impact on the judicial system.

IMPACT OF PROPOSED LEGISLATION ON VICTIMS AND COMMUNITIES:

\$5,444

Additional victimization costs over three years.

Decreasing sentences shortens the incapacitation of offenders. SPAC incorporates the incapacitation effect of felony offenders on victims in two ways: as offenders age out of crime and as crimes are delayed because of incapacitation.

Table 23 lists the victimization costs caused by affected HB3355 offenders in the past, within both one and three years from release. The table shows the costs of no longer incapacitating these offenders as well as the costs of younger offenders, who are more likely to recidivate, remaining in the community.

Table 23. Short-Term Victimization Costs

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | L' - L = D | V1 | $V1 / [(1+0.03)^T] = V1'$ | NPV = V1' - V1 | N | NPV x N |
| | 0.03 | 0.00 | -0.03 | \$323 | \$323 | -\$0.26 | 775 | -\$205 |
| Total | | | | | | | | -\$205 |

| 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 |
|---------------------|--------------------------|--|------------------|---------------------------------------|---------------------|----------------------------------|---|---|------------------------|
| | | | P | N x P = N' | K | L' - L = D | K x D = E | (Convictions : Recidivism) = Z | V3 |
| | 18 to 27 | 35.4% | 274 | -2.1% | -0.03 | 0.1% | 1.65 | -\$17,190 | -\$4,519 |
| | 28 to 36 | 24.4% | 189 | 0.3% | -0.03 | 0.0% | 1.65 | -\$17,190 | \$445 |
| | 37 to 50 | 27.4% | 212 | -0.7% | -0.03 | 0.0% | 1.65 | -\$17,190 | -\$1,166 |
| | Total | 100% | 775 | | | | | | -\$5,240 |

| | Dollar Value From 2014 to 2016 |
|-------------------------------------|--------------------------------|
| Total Victimization Benefits | -\$5,444 |

DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

Examining the geographic distribution of incoming inmates affected by HB3355 shows that 91% of the inmates affected come from Cook, and another 3% come from Collar counties.

Table 24. Geographic Distribution of Short-Term Reforms

| 2014-16 Admissions, Subject to HB3355: County of Origin | Frequency | Percent |
|---|------------|-------------|
| Cook County | 708 | 91% |
| Will County | 13 | 2% |
| DuPage County | 8 | 1% |
| Other | 46 | 6% |
| Total | 775 | 100% |

Of all the admissions, 90% are male. In the table below, **Table 25**, the race of offenders impacted by HB3355 is described. The majority of offenders are Black, with Whites making up the second largest group. Other includes Hispanic and Native American.

Table 25. Short-Term Reform Racial Impact

| 2014-16 Admissions, Subject to HB3355: Race | Frequency | Percent |
|--|------------------|----------------|
| Black | 587 | 76% |
| White | 99 | 13% |
| Other | 89 | 11% |
| Total | 775 | 100% |

HABITUAL CRIMINAL REFORM

730 ILCS 5/5-4-1 AND 730 ILCS 5/5-8-6

REPEAT CLASS 1 AND 2 ENHANCEMENTS FOR FORCIBLE FELONIES
PROJECTED IDOC POPULATION IMPACT: -250 INDIVIDUALS ANNUALLY

INSUFFICIENT DATA TO SUPPORT FULL FISCAL IMPACT ANALYSIS

Under current law repeat Class 1 or Class 2 felons can be sentenced as class X offenders for their third Class 1 or Class 2 convictions. [HB3355 HA1](#) limits habitual criminal enhancements to be *forcible* felonies, rather than any Class 1 or 2 felony.²⁴ The bill specifically prohibits counting drug offense as one of the prior convictions for purposes of this enhancement.

SPAC PRISON POPULATION PROJECTION – HB3355 HA1 COMPONENT

Over time, the SPAC projection estimates that IDOC would have 250 fewer inmates because of this reform. SPAC identified admissions that were identified as habitual criminal offenses in IDOC's case management system and compared that to state criminal history records to determine if the prior offenses were forcible felonies. If the current admission was not a forcible felony or if the individual did not have two prior forcible felonies, the sentences were reduced:

- For those with 6 year prison sentences: the minimum sentence term for the underlying felony (4 or 3 years, for Class 1 or 2 felonies, respectively).
- For those with more than 6 year prison sentences: the maximum sentence term for the underlying felony (15 or 7 years, for Class 1 or 2 felonies, respectively).

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.

Due to data limitations and uncertainties about application of the habitual criminal sentencing enhancements by courts, SPAC was unable to perform a retrospective fiscal impact analysis. Over the past three fiscal years, SPAC identified 2,540 individuals who were admitted to prison (1) on a Class 1 or 2 felony and (2) flagged as a habitual criminal sentence in IDOC's case management system. Of these 2,540 individuals:

- 73% self-identified as black and 19% self-identified as white.
- The average age at admission was almost 41 years old.
- 65% were admitted from Cook County and 4% were admitted from Winnebago County; 3% were admitted from Will and Peoria counties; and the remaining counties made up 2% or less of the admissions.

Admissions with habitual criminal sentences have significantly decreased in fiscal year 2016, at least partly because admissions overall have decreased. SPAC analysis of CHRI data indicates that the number of convictions eligible for the three-strike enhancement may decrease by 60% each year with HB3355 HA1's new eligibility standards.

²⁴ HB3355 HA1's language on habitual criminal reforms is substantially similar in application to **SB1722 with Senate Amendment 4**, available at: <http://www.ilga.gov/legislation/100/SB/PDF/10000SB1722sam004.pdf>.

EXPAND PROBATION AND SPECIALTY PROBATION ELIGIBILITY

730 ILCS 5/5-5-3, 720 ILCS 550/10, 720 ILCS 570/410, 720 ILCS 646/70,
730 ILCS 5/5-6-3.3, AND 730 ILCS 5/5-6-3.4

RESTORE PROBATION ELIGIBILITY AND EXPAND SPECIAL PROBATION PROGRAMS

PROJECTED IDOC POPULATION IMPACT: N/A

INSUFFICIENT DATA TO SUPPORT FULL FISCAL IMPACT ANALYSIS

When reviewing [HB3355 HA1](#),²⁵ which removes prohibitions on probation for certain offenses, SPAC discovered what might be an anomaly in the data or a pattern and practice in sentencing: approximately 20% of the people convicted of non-probationable offenses pursuant to 730 ILCS 5/5-5-3 are getting sentenced to probation on those convictions. Over the past three years, Illinois Criminal History Record Information (CHRI) show roughly 10,000 convictions for offenses that are nonprobationable under 730 ILCS 5/5-5-3(c); only about 70% of those offenders were sentenced to prison and 20% are getting probation. Most of the remaining 9% are getting jail or credit for time served sentences with no indication that they are going to IDOC to be processed and put on MSR, which implies that they are not getting sentenced to IDOC. Approximately 2% of cases had a TASC probation sentence on a residential burglary conviction, a permitted sentence under 20 ILCS 301.

Table 26. Sentences for Individuals Convicted of Offenses in 730 ILCS 5/5-5-3(c) & HB3355

| Cases with Convictions for Section 5-5-3 Nonprobationable Offenses | | Cases over Past Three Years | Percent of Total |
|---|--|-----------------------------------|---------------------|
| Prison Sentences | <i>Prison Sentence for a Section 5-5-3 Offense</i> | 4,923 | 48.3% |
| | <i>Prison Sentence for Another Offense but Same Case</i> | 2,134 | 20.9% |
| | Total Prison Sentences | 7,057 | 69.2% |
| Probation Sentences | <i>TASC Probation Sentence</i> | 175 | 1.7% |
| | <i>Probation Sentence</i> | 2,078 | 20.4% |
| | <i>Only Jail or Credit Time Served Sentence</i> | 701 | 6.9% |
| | <i>Convictions Without Sentence Records</i> | 186 | 1.8% |
| | Total Probation, Other, or Unknown | 3,140 | 30.8% |
| Total Convictions | | 10,197 | 100% |

Source: SPAC analysis of CHRI data

POTENTIAL EXPLANATIONS:

1. Data issues, including record keeping practices for cases with multiple convictions in one case

- For cases with multiple charges, administrative datasets sometimes identify one primary offense for each case. For example, an individual convicted of one count of delivery of a controlled substance near a school (720 ILCS 570/407) and one count of possession with

²⁵ HB3355 HA1’s language on probation eligibility reforms is substantially similar to **HB2955**, available at: <http://www.ilga.gov/legislation/100/HB/PDF/10000HB2955lv.pdf>.

intent to deliver (720 ILCS 570/401) may have a longer sentence on the Section 401 conviction, which would then be considered the primary holding offense upon admission to prison. Generally, both sentences are recorded and available for analysis but the data entry on the secondary, concurrent sentence may be less complete. SPAC found 20.9% of cases that had no prison sentence on the nonprobationable offense but the overall case still had a prison sentence imposed.

- After comparing the CHRI data with Cook County Circuit Clerk data, our estimate is that only about 1.8% of the non-prison sentences lack any sentencing record, which is most likely attributable to data entry error.

2. Alternatives to prison, including TASC probation, authorized by other laws

- The Alcoholism and Other Drug Abuse and Dependency Act, 20 ILCS 301, permits individuals diagnosed with substance abuse issues to be eligible for treatment in the community and includes offenses like residential burglary that are otherwise ineligible for probation. Approximately 1.7% of cases indicated TASC probation, the vast majority of which were for residential burglary convictions.
- The Controlled Substances Act (720 ILCS 570/410), Cannabis Control Act (720 ILCS 550/10), and Methamphetamine Control and Community Protection Act (720 ILCS 646/10) provide for judicial supervision under probation in certain circumstances. Many of these cases are recorded as guilty dispositions because the final disposition may be withheld; however, the eligibility and application may be the cause of prison diversions.
- Specialty courts, authorized under the Drug Court Treatment Act (730 ILCS 166), Mental Health Court Treatment Act (730 ILCS 168), and others, may result in sentences that appear to be probation but are under court supervision in other special dispositions and/or programs.

3. Characteristics of the offender, such as juveniles or individuals with disabilities

- Under the Juvenile Court Act, 705 ILCS 405/5-715, juveniles who are adjudicated for a Class X felony, forcible felony like residential burglary, or other non-probationable offenses may still be sentenced to probation. These adjudications may be incorrectly recorded as convictions or they may be transfers to adult courts. Many cases involved young offenders, but SPAC couldn't identify the frequency of these issues.
- Under Illinois Criminal Procedure, 725 ILCS 5/104-22 establishes rules for trials with special provisions and assistance when a defendant can be made fit to stand trial with assistance. For these cases the sentencing provision allows for judges to deviate from the Code of Corrections if the court believes that because of the defendant's disability, either (1) "a sentence of imprisonment would not serve the ends of justice and the interests of society and the offender" or (2) the standard penalty would "subject the offender to excessive hardship." 725 ILCS 5/104-26(c)(1).

Table 27. Nonprobationable Admissions to Prison by Offense

| Code of Corrections | Offense | | Criminal Code Statutory Citation | Arrests ^a | Convictions ^a | Admissions to Prison ^a |
|---------------------|--|----------------------|----------------------------------|----------------------|--------------------------|-----------------------------------|
| 730 ILCS 5/5-5-3 | | | 720 ILCS | | | |
| (c)(1)(D) | Controlled drug trafficking | | 570/401.1 | 288 | 13 | 19 |
| | Delivery near a protected area ^b | | 570/407 | 8,239 | 3,682 | 943 |
| (c)(1)(D) | 5+ grams | fentanyl | 570/401(c)(1.5) | <10 | <10 | 7 |
| | | cocaine ^b | 570/401(c)(2) | 2,221 | 1,642 | 935 |
| (c)(1)(D-5) | 3+ grams of heroin ^b | | 570/401(c)(1) | 1,454 | 1,935 | 1,050 |
| (c)(1)(F) | Class 2 or greater repeat offense within 10 years ^c | | Class 1 | | 3,372 | 2,742 |
| | | | Class 2 | | 5,632 | 4,362 |
| (c)(1)(G) | Residential burglary ^d | | 5/19-3 | 7,801 | 3,123 | 2,017 |
| Total | | | | 20,003 | 19,399 | 12,075 |

^a The arrests and convictions are for calendar years 2013-2015, whereas the prison admissions are for fiscal years 2014-2016, which run July 1, 2013 through June 30, 2016. The larger number of admissions than convictions for controlled drug trafficking is because of this six month difference. The totals do not include the categories with fewer than 10 individuals in the arrest or conviction columns.

^b The gap between the numbers of convictions and admissions to prison is likely caused by a combination of (1) individuals with multiple convictions where the delivery near a protected area is not the most severe offense or sentence, (2) specialty courts or probation programs, and/or (3) other issues, such as those listed below with regards to residential burglary.

^c The repeat offender non-probationable section has significant overlap with the other non-probationable sections. Some of the convictions counted in the chart above would still be non-probationable (for example, repeat convictions for manufacture or delivery of heroin) regardless of this change.

^d The gap between the numbers of convictions and admissions to prison is likely caused by a combination of (1) individuals receiving TASC probation under 20 ILCS 301/40-10, (2) juvenile convictions receiving probation under 705 ILCS 405/5-715(1.5), (3) individuals convicted of attempted residential burglary, which is an offense that is eligible for probation, (4) individuals with multiple convictions where the non-residential burglary count has a longer prison sentence and so the residential burglary is not recorded as the primary holding offense on the admissions records, (5) individuals who are require the special provisions and assistance procedures under 725 ILCS 5/104-22, and/or (6) potential data errors or other alternative dispositions. Some of the juvenile convictions may actually be delinquency adjudications—some convictions were of offenders under the age of 18 at arrest—but the outcomes were coded as convictions.

IMPACT OF MAKING MORE CRIMES PROBATIONABLE: Table 28 shows that those who go to prison are getting average sentences of five years or longer. If HB3355 HA1 had been in effect for the past three years *and if* a number of these admissions were instead sentenced to probation, the average sentence and time served would be important for the overall impact. However, if the long prison sentences indicate that these cases would be sentenced to prison even if probation were an option, the impact would be small. The length of term may indicate whether probation would or would not be viewed as an appropriate sentence.

Table 28. Number of prison admissions over the past three fiscal years the average sentence, pretrial detention time, and time served in prison

| Code of Corrections | Offense | | Criminal Code - Statutory Citation | Admissions to Prison | Average Jail Time | Average Sentence | Average IDOC Time Served ¹ | Average Time Incarcerated |
|---------------------|---|----------|------------------------------------|----------------------|-------------------|------------------|---------------------------------------|---------------------------|
| 730 ILCS 5/5-5-3 | | | 720 ILCS | | | | | |
| (c)(1)(D) | Controlled drug trafficking | | 570/401.1 | 19 | 0.97 | 10.1 | 9.7 | 10.7 |
| | Delivery near a protected area | | 570/407 | 943 | 0.61 | 6.0 | 2.3 | 2.9 |
| (c)(1)(D) | 5+ grams | fentanyl | 401(c)(1.5) | 7 | 0.42 | 4.7 | 1.5 | 1.9 |
| | | cocaine | 401(c)(2) | 935 | 0.53 | 5.8 | 1.9 | 2.5 |
| (c)(1)(D-5) | 3+ grams of heroin | | 401(c)(1) | 1,050 | 0.66 | 5.3 | 1.6 | 2.2 |
| (c)(1)(F) | Class 2 or greater repeat offense within 10 years | | Class 1 felony | 2,742 | 0.79 | 6.7 | 2.5 | 3.3 |
| | | | Class 2 felony | 4,362 | 0.66 | 5.3 | 2.0 | 2.7 |
| (c)(1)(G) | Residential burglary | | 5/19-3 | 2,017 | 0.60 | 5.7 | 2.0 | 2.6 |

¹ Average time served in IDOC is calculated from releases from prison during fiscal years 2014-2016. The releases are not the same individuals as those admitted to prison during those years, which is the source for the rest of the data presented in this table.

APPENDIX A. Methodology

SPAC PRISON POPULATION PROJECTION METHODOLOGY

A population projection answers the question “What if these policies were enacted?” In the projection graphs, the red line in the projection shows the baseline, status quo projection of the prison population estimated for June 30th of each year. The graphs’ red line shows the baseline, status quo projection of the prison population estimated for June 30th of each year. On June 30, 2025, the status quo projection estimates 48,533 individuals would be held in prison. The dotted lines answers the “what if” question regarding the components of HB3355 HA1 that SPAC modeled. The gap between the status quo and the new policy projections shows the impact of the changes on June 30 of each year.

The projections rely on the assumption that admissions, sentences, and IDOC discretionary sentence credit awards remain consistent with the recent past, FY2014-16. The changes between the status quo and HB3355 HA1 scenario reflect the bill’s proposed sentences, probation eligibility, and sentence credit policies. 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:

1. Theft and retail theft:
 - a. HB3355 HA1 adjusts the threshold for felony theft and felony retail theft from \$300 and \$500, respectively, to \$2,000. Because of data limitations in the Criminal History Record Information system, no Illinois-specific data exist on the dollar value of stolen property. Instead, SPAC reviewed National Incident-Based Reporting System (NIBRS) data, which includes neighboring states and *the only NIBRS-compliant jurisdiction in Illinois is the Rockford Police Department*. Using these data as approximations of property crimes in Illinois, SPAC estimated that admissions would decrease by 95% for retail theft and 70% for theft.
2. Drug reform:
 - a. The felony class for each offense is adjusted according to HB3355 HA1 and a new sentence is imposed within the new range but with the same prison-term distribution across that range.
 - b. For felony offenses that become misdemeanors, the model assumes that all of those admissions are sentenced to either probation or jail because prison is not an authorized sentence for misdemeanors.
 - c. The model assumes that, for drug offenses that become probationable under HB3355 HA1, one third would receive probation rather than prison. This percentage matches current sentencing practices, as found by SPAC analysis of CHRI data.
 - d. For aggravated drug offenses, the new felony class for the base offense is used plus the average enhancement. SPAC calculates the average enhancement by comparing current time served for manufacture and delivery offenses to the time served by those with enhancements (*i.e.*, delivery near a school or protected

- place) and is approximately 9 months. This method is also applied to aggravated offenses that are repealed by HB3355 HA1.
- e. For the protected zone scenario, SPAC assumed 50% of those convicted of drug delivery near a protected zone would still be subject to the sentence enhancement under HB3355 HA1 and their sentences would remain the same. The other 50% are instead sentenced under the standard manufacture or delivery penalties.
3. Truth-in-sentencing:
 - a. Current practices for revocations of good-time credit remain constant.
 - b. For the current inmate population, SPAC assumes they would receive good-time credit under the new rules going forward only and no additional credits for time already served.
 - c. SPAC applies the TIS changes to consecutive sentences.
 - d. 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.
 4. Short lengths of stay:
 - a. After a two-week admission, SPAC flags all admissions with a projected stay of four months or less without considering sentence credits.
 5. Habitual criminal enhancements:
 - a. SPAC identified admissions that were identified as habitual criminal offenses in IDOC's case management system and compared that to state criminal history records to determine if the prior offenses were forcible felonies. If the current admission was not a forcible felony or if the individual did not have two prior forcible felonies, the sentences were reduced:
 - i. For those with 6 year prison sentences: the minimum sentence term for the underlying felony (4 or 3 years, for Class 1 or 2 felonies, respectively).
 - ii. For those with more than 6 year prison sentences: the maximum sentence term for the underlying felony (15 or 7 years, for Class 1 or 2 felonies, respectively).
 6. Expanded probation:
 - a. Additional eligibility for 710 and 1410 probation, meth specialty probation, the Offender Initiative Program, and Second Chance Probation are not included in the modeled projections.

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). **Importantly, preliminary analysis of the Criminal History Record Information (CHRI) data shows that some counties may not be reporting misdemeanor convictions or felony prison sentences to the State and the extent of the underreporting is unknown** until a data-integrity audit can be completed by the Illinois Criminal Justice Information Authority. SPAC accounted for the lack of felony prison sentences

by analyzing IDOC data for FY2014-16. Misdemeanor convictions and sentences, however, are more uncertain for several large counties. Lacking these data, the impact on local jails and probation departments may be understated. The numbers shown here are based on the best available information, but **the limitations require caution**.

To calculate the overall 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.²⁶ 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 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.

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.

²⁶ Local costs are estimated from SPAC's survey of county budgets, available on SPAC's website: <http://ilspac.illinois.gov>.

SPAC's methodology assumes here 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.

SPAC used the most recent data from 2014, 2015, and 2016 for Illinois Department of Corrections (IDOC) admissions to identify the number of individuals affected by this proposal in those years. There were 90,000 admissions to IDOC during those three years.

APPENDIX B. Limitations and Assumptions

- The above analyses are retrospective and do not account for changes in crime, arrests, court filings, plea negotiations, convictions, or sentencing. For the forward-looking projections of the prison population, SPAC holds the past three years constant and modifies future admissions, sentencing, and sentence credit policies as proposed to see how those changes affect future prison populations. For the retrospective fiscal impact analyses, SPAC examines the past three years and then compares what sentencing outcomes would have occurred had the bill been in effect. For both approaches, SPAC assumes no change in arrests, charges, convictions, or sentencing other than as described.
- SPAC did not estimate the effects on probation due to shorter felony probation sentences due to lower felony classification. SPAC's fiscal analysis focuses on the most resource intensive cases affected by the proposal: individuals admitted to prison.
- For offenses made eligible for probation by this proposal, SPAC assumes that approximately one third would receive probation. This estimate is from an analysis of CHRI that showed approximately 33% of Class 1 felons received probation. The percentage increased for each lower felony class, which means SPAC's estimate may underestimate the additional costs for local probation departments and underestimate the costs avoided for IDOC.
- For felony offenses that become misdemeanors, SPAC estimates 50% would receive probation and 50% would receive 6 months of jail time on average.
- Based on information from past probation studies, SPAC estimated that the average length of supervision on probation was two years. SPAC uses the average cost of probation, \$1,900 per offender per year. Drug offenders, however, may be sentenced to more expensive supervision environments, including drug treatment, drug courts, and intensive supervision. These additional costs are not included.
- For many offenses, the MSR supervision period may be shorter due to the lower felony class, including no MSR if the felony is reduced to a misdemeanor. For the drug fiscal analysis, SPAC uses the average MSR terms for drug offenders by felony class and adjusts the expected average length of the new class.
- For sentence enhancements that permit extended prison terms (*e.g.*, double the maximum or the minimum plus the maximum of the base offense's range), SPAC used the current difference between the average sentence lengths of the base offense and the extended terms as an estimate of how large the enhancement would be under the bill. This approach conservatively assumes the average enhancement will be equally as large as current practice, even though the maximum possible prison term would be lower. However, the true impact depends upon prosecutorial and judicial decisions about sentencing as some extended terms would be discretionary.
- For purposes of this report, "extended terms" is defined as any sentence range that is beyond the statutory range for the felony class, including longer sentences designated in the offense statute. These sentences are sometimes referred to "Super Class X" or "Super Class 1."
- In calculating pretrial detention periods, SPAC has found a correlation between the length of pretrial detention and the length of the prison sentence. For each additional year of prison, there was a 29-day change in pretrial detention length. Consequently, SPAC adjusts the expected jail time by 29 days per year for any higher or lower prison sentences caused by the bill.
- For crimes with admissions to prison over the past three years but no releases, SPAC uses the average pretrial detention and sentence length for those crimes. This calculation occurs in few cases but improves the overall estimate by accounting for all drug admissions.

- SPAC counts offenders only under their most serious offense. Some offenders may have second or third offenses that would affect their sentencing.
- SPAC does not include the local costs for detaining individuals who are arrested but not convicted or given a withheld judgment.
- Additional impacts from procedural changes to the criminal and corrections codes are not included. For example, civil fines and petty offense sanctions are not considered in these analyses. For estimates of petty offense revenue from other cannabis revisions, please see SPAC's website for past fiscal impact analyses:
<http://www.icjia.state.il.us/spac/index.cfm?metasection=publications>
- 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.
- The National Incident-Based Reporting System (NIBRS) includes data reported from **Rockford, Illinois, the only Illinois jurisdiction that reports into the NIBRS system**, and national data. NIBRS is not a reliable estimate of stolen property in the Chicago area due to a lack of reporting from major metropolitan areas. However, the national data is consistent with neighboring states' and Rockford's stolen property values, indicating the NIBRS dataset is sufficient to estimate property values for the urban areas outside Chicago and its suburbs. SPAC uses this data because (a) the dataset has the best available information on stolen property values and reflect actual crimes reported to law enforcement, (b) enough incidents are reported that outliers or data entry errors are unlikely to bias the results, and (c) the federal government, including the FBI, and the Illinois State Police are committed to further implementing NIBRS reporting across the State. As compliance grows, more Illinois-specific information will be included and eventually SPAC will be able to use these data for full fiscal impact analyses.
- SPAC uses the midpoint between the national average and the average value in Rockford, Illinois. **Because of the NIBRS data gaps for metropolitan areas and Illinois generally, this estimate may either over- or underestimate the impact of these proposals.**
- For the drug reform analysis, the felony class for each offense is adjusted according to the proposal and a new sentence is imposed within the new range but with the same prison-term distribution across that range.
- Current practices for revocations of good-time credit remain constant, including individuals serving time on technical violations.
- 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.
- For the truth-in-sentencing reform analysis, 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.
- For the truth-in-sentencing reform analysis, 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.

- For the truth-in-sentencing reform analysis, cumulative impacts of continual admissions of TIS offenders 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.
- For the short-term reforms, SPAC does not include changes in intake costs because IDOC would still need to process offenders after sentencing. If this process were avoided, there could be larger benefits from lower transportation costs, fewer intake hours, and fewer medical, educational, or behavioral health screenings.
- SPAC does not include the capital cost of building or acquiring space for alternatives to prison for the short-term reform. Additional costs of building or expanding adult transition centers, adding new reception and classification capacity in high-committing counties, expanding electronic detention capacity, or adding other new facilities are not included in this analysis.
- For the short-term reforms, SPAC does not assume judges would consider standard discretionary sentence credits that would bring many IDOC admissions below the four-month threshold.
- Because of insufficient data on where inmates would have been placed had the short-term reforms been in effect, SPAC assumes an equal proportion of inmates would receive electronic detention, adult transition centers, or another facility. For costs of these alternatives, SPAC (a) averaged known electronic detention costs, (b) used the marginal costs of an Illinois ATC, and (c) used the marginal cost for all IDOC facilities. The costs of these alternatives are estimated from the best available data from IDOC and service providers.
- For the habitual criminal analysis, SPAC uses IDOC's new case management system, Offender 360, and past records where an offender has a habitual criminal identifier to select sentences under this enhancement. This approach relies on the accuracy and completeness of this identifier. SPAC's analysis of criminal history records shows a substantially higher number of individuals qualified for the enhancement.
- SPAC assumes that the change would not affect plea deals or changes in sentencing patterns other than the exclusion of those with non-forcible felonies, which would no longer be eligible to receive the enhancement.
- For the fiscal impact analysis, SPAC uses a dynamic marginal cost for jail and prison cost estimation,²⁷ which assumes:
 - Current resources are roughly in line with current costs. Importantly, the fiscal impact does not address systemic under- or over-staffing but merely increases or decreases the estimated budget from the current status quo.
 - Capital construction costs, as well as bond and debt repayments, are not included unless the service change is very large (50% of the past maximum or minimum services). No continuous escalation rates or inflation are included in the estimates.
 - No consistent growth in costs, such as for inmate medical care or overall staffing costs, is considered.
 - SPAC's 2016 analysis of seven county jails is used as an approximation of statewide jail costs.²⁸ If jail populations increased or decreased in each county jail proportionally, the

²⁷ SPAC, Supplement: Dynamic Marginal Costs in Fiscal Impact Analyses, 2017, available at: http://www.icjia.state.il.us/spac/pdf/Dynamic_Marginal_Costs.pdf.

overall dynamic marginal costs can be calculated from a statewide analysis. In other words, a 6% increase in the statewide jail population is assumed to be an increase of exactly 6% in each county's jail population.

- SPAC does not include estimates of the recidivism rate reductions that could occur from use of evidence-based programs either in prison or in the community. Depending on use or expansion of evidence-based programs because of this bill, recidivism rates could be affected which could have a significant benefit to Illinois residents. SPAC's previous analysis has found that a 1% reduction in the recidivism rate would produce over \$108 million in benefits to Illinois victims, economic growth, and government expenditures.²⁹

²⁸ SPAC, Quantifying County Adult Criminal Justice Costs in Illinois, 2016, available at:

http://www.icjia.state.il.us/spac/pdf/Quantifying_County_Adult_Criminal_Justice_Costs_in_Illinois_120616.pdf.

²⁹ SPAC, Illinois Results First: The High Cost of Recidivism, 2015, available at:

http://www.icjia.state.il.us/spac/pdf/Illinois_Results_First_Consumer_Reports_072016.pdf.

APPENDIX C. Tables of HB3355 HA1's Changes to Sentencing

STANDARD INCARCERATION TERMS FOR CRIMES IN ILLINOIS

Table 29. Average Terms

| | Class | Jail or Prison Term | Probation Term | Mandatory Supervised Release Term ¹ |
|-------------|---------|-----------------------|------------------|--|
| Misdemeanor | Class C | Up to 30 days (jail) | Up to 2 years | -- |
| Misdemeanor | Class B | Up to 6 months (jail) | Up to 2 years | -- |
| Misdemeanor | Class A | Under 1 year (jail) | Up to 2 years | -- |
| Felony | Class 4 | 1-3 years (prison) | Up to 2.5 years | 1 year |
| Felony | Class 3 | 2-5 years (prison) | Up to 2.5 years | 1 year |
| Felony | Class 2 | 3-7 years (prison) | Up to 4 years | 2 years |
| Felony | Class 1 | 4-15 years (prison) | Up to 4 years | 2 years |
| Felony | Class X | 6-30 years (prison) | Nonprobationable | 3 years |

¹ Mandatory supervised release (MSR) is mandatory community supervision, formerly known as parole, for felons released from prison. Some crimes, such as some sex offenses, receive extended supervision terms up to natural life.

Unless otherwise specified, the incarceration terms for the felony and misdemeanor classes follow the standard terms specified by the Illinois Uniform Code of Corrections (730 ILCS 5 Section 5-4.5 et seq.).

Table 30. Theft Changes

| 720 ILCS 5/16-1 - Theft | | |
|-------------------------|--|---|
| | Current Law | Proposed |
| (b)(1) | Theft less than \$500 is Class A | Theft less than \$2,000 is Class A |
| (b)(1.1) | Theft less than \$500 from protected place is Class 4 | Theft less than \$2,000 from protected place is Class 4 |
| (b)(2) | Theft less than \$500 if previously convicted of a any type of property crime is Class 4 | Theft less than \$2,000 if previously convicted of a <i>felony</i> theft is Class 4 |
| (b)(4) | Theft \$500-\$10,000 is Class 3 | Theft \$2,000-\$10,000 is Class 3 |
| (b)(4) | Theft less than \$500 from a person is Class 3 | -- no change -- |
| (b)(4.1) | Theft \$500-\$10,000 if in protected place is Class 2 | Theft \$2,000-\$10,000 if in protected place is Class 2 |
| (b)(4.1) | Theft less than \$500 from a person if in protected place is Class 2 | -- no change -- |
| (b)(5) et seq | Theft greater than \$10,000 is Class 2, Class 1, or Class X | -- no change -- |

Table 31. Retail Theft Changes

| 720 ILCS 5/16-25 - Retail Theft | | |
|--|--|---|
| | Current Law | Proposed |
| (b) | Retail theft by emergency exit | Retail theft by emergency exit |
| (f)(1) | Retail theft less than \$300 less than \$150 for fuel is Class A | Retail theft less than \$2,000 less than \$150 for fuel is Class A |
| (f)(1) | Theft shielding device is Class A (1 st time) is Class 4 (2 nd time) | -- no change -- |
| (f)(1) | Less than \$300 by emergency exit is Class 4 | Less than \$2,000 by emergency exit is Class 4 |
| (f)(2) | Retail theft less than \$300 less than \$150 for fuel if previously convicted of a any type of property crime is Class 4 | Retail theft less than \$2,000 less than \$150 for fuel if previously convicted of a <i>felony</i> theft is Class 4 |
| (f)(2) | Less than \$300 by emergency exit if previously convicted of a any type of property crime is Class 3 | Less than \$2,000 by emergency exit if prior conviction of a <i>felony</i> theft is Class 3 |
| (f)(3) | Retail theft greater than \$300 is Class 3 or Class 2 | Retail theft greater than \$2,000 is Class 3 or Class 2 |

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CANNABIS CONTROL ACT

Table 32. Cannabis Possession

| | | Possession 720 ILCS 550/4 | |
|------------------------------|----------------|-------------------------------------|------------------------------------|
| Cannabis Amounts | | Current Law | Proposed |
| Under 10 grams (a) | | <i>\$100-\$200 fine</i> | <i>Civil Law Violation (\$125)</i> |
| 10-30 grams (b) | | <i>Class B</i> | |
| 30-100 grams (c) | First offense | <i>Class A</i> | <i>Class A</i> |
| | Second offense | <i>Class 4</i> | |
| 100-500 grams (d) | First offense | <i>Class 4</i> | |
| | Second offense | <i>Class 3</i> | |
| 500-2,000 grams (e) | | <i>Class 3</i> | <i>Class 4</i> |
| 2,000-5,000 grams (f) | | <i>Class 2</i> | <i>Class 3</i> |
| Over 5,000 grams (g) | | <i>Class 1</i> | <i>Class 2</i> |

Table 33. Cannabis Manufacture and Delivery

| Cannabis Amounts | Manufacture and Delivery 720 ILCS 550/5 | | Manufacture and Delivery within 1,000 500^a feet 720 ILCS 550/5.2 | |
|------------------------------|---|----------------|--|-------------------------------|
| | Current Law | Proposed | Current Law | Proposed |
| Under 2.5 grams (a) | <i>Class B</i> | <i>Class B</i> | <i>Class A</i> | <i>Location not a factor.</i> |
| 2.5-10 grams (b) | <i>Class A</i> | | <i>Class 4</i> | |
| 10-30 grams (c) | <i>Class 4</i> | <i>Class A</i> | <i>Class 3</i> | <i>Class 4^b</i> |
| 30-500 grams (d) | <i>Class 3</i> | <i>Class 4</i> | <i>Class 2</i> | <i>Class 3</i> |
| 500-2,000 grams (e) | <i>Class 2</i> | <i>Class 3</i> | <i>Class 1</i> | <i>Class 2</i> |
| 2,000-5,000 grams (f) | <i>Class 1</i> | <i>Class 2</i> | <i>Location not a factor.</i> | <i>Class 1</i> |
| Over 5,000 grams (g) | <i>Class X</i> | | | |

^a 1,000 feet reduced to 500 feet of a school or related property.
^b Only with respect to 15 grams or more.

New: 720 ILCS 550/5.1, Cannabis Trafficking – current law requires a mandatory minimum prison sentence at least twice the minimum and no more than twice the maximum sentence for delivery of cannabis. This proposal applies a Class 1 penalty if the offender travelled across state

lines with more than 2,500 grams. The proposal applies the unenhanced penalties to cannabis manufacture and delivery penalties if the offender proves at sentencing that (1) he or she received little or no compensation and had minimal knowledge of the scope of the transportation or (2) he or she was not involved in the organization or planning of the transportation, manufacture, or delivery.

720 ILCS 550/5.2, Cannabis Manufacture and Delivery within Distance of School – see **Table 33**.

New: 720 ILCS 550/7, Delivery of Controlled Substance to People under 18 – amends the penalties for delivery to an individual under 18 years old from twice the maximum for the underlying crime to a discretionary sentence equal to the minimum plus the maximum term for the underlying offense. For example, cannabis delivery under subsection (f) (2,000 to 5,000 grams) is a Class 1 felony with a sentence range of 4 to 15 years. Under current law the offender may be sentenced up to 30 years, twice the maximum, if delivering to a minor. Under this proposal the possible maximum would be 19 years, the sum of 4 and 15.

Table 34. Cannabis Plants

| | Cannabis Plants 720 ILCS 550/8 | |
|-----------------------------------|---|-----------------|
| Cannabis Amounts | Current Law | Proposed |
| Not more than 5 plants (a) | <i>Class A</i> | <i>Class B</i> |
| 6 to 20 plants (b) | <i>Class 4</i> | <i>Class A</i> |
| 21 to 50 plants (c) | <i>Class 3</i> | <i>Class 4</i> |
| 51 to 200 plants(d) | <i>Class 2</i> | <i>Class 3</i> |
| More than 200 plants (e) | <i>Class 1</i> | <i>Class 2</i> |

Repealed: 720 ILCS 550/9, Criminal Cannabis Conspiracy – removes the crime of a calculated criminal cannabis conspiracy.

CONTROLLED SUBSTANCES ACT MANUFACTURE, DELIVERY, OR POSSESSION WITH INTENT

Table 35. Manufacture, Delivery, or Possession with Intent of a Controlled Substance

| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|------------------------------------|---|-------------------------------|-----------------------------------|---|--|--|--------------------------------------|--------------------------|---|-------------------------------|
| | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| Any amount below the specified amounts of any Controlled Substance | (d) any other amount | Class 2 | Class 4 | Twice minimum to twice maximum | Removed | -- | -- | Up to 14 years extended term | Class 4 (max: 4 years) | Class 1 | Class 3 |
| Heroin | (c)(1) 1-15 grams | Class 1 | Class 3 | Twice minimum to twice maximum | " " | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (a)(1)(A) 15-100 grams | Class X | Class 2* | " " | " " | Class X (15-60 extended term) | Class 1* | Up to 60 years extended term | Class 2 (max: 10 years)* | Up to 60 years extended term | Class 1* |
| | (a)(1)(B) 100-400 grams | Class X (9-40 extended term) | Class 1* | " " | " " | Class X (15-60 extended term) | Class 1 (6-30 extended term)* ^b | Up to 80 years extended term | Class 1 (max: 19 years)* | Up to 80 years extended term | Class 1 (6-30 extended term)* |
| | (a)(1)(C) 400-900 grams | Class X (12-50 extended term) | | " " | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | | Up to 100 years extended term | | | |
| | (a)(1)(D) 900 or more grams | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | " " | Class 1 (9-40 extended term) ^b | Class X (15-60 extended term) | Class 1 (9-40 extended term)* | Up to 120 years extended term | Class 1 (max: 36 years)* | Up to 120 years extended term | Class 1 (9-40 extended term)* |

Extended terms are indicated as the felony classification and the range of authorized prison terms. These sentences are sometimes referred to "Super Class X" or "Super Class 1."
Ditto marks (" ") indicate the penalty is the same as the cell directly above.
A star (*) indicates the proposed change makes the offense eligible for probation.
Dashes (--) are used when the crime is not specifically defined in the current law. The catchall offenses would apply instead, for example, 720 ILCS 570/401(e), which defines the penalties for any other Schedule I or II drug not otherwise specified in the law.

^b Heroin manufacture or delivery of 100 to 900 grams in a streetgang drug conspiracy (720 ILCS 570/405.2(a)(1), an underlying violation of 720 ILCS 570/401(a)(1)(B) or (C)) currently has a penalty of 15-60 years as a Class X felony. HB3355 HA1 may leave the enhancement as one class higher than the underlying offense, to a Class X felony; however, for purposes of this analysis, the systematic reforms applied elsewhere are applied to this offense. Because few admissions fall under this offense, the overall impact is minimal.

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|--------------------------------------|--|-------------------------------|--|---|---|-------------------------------|---|--------------------------|--|-------------------------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| Fentanyl | (c)(1.5) 1-15 grams | Class 1 | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (a)(1.5)(A) 15-100 grams | Class X | Class 2* | “ “ | “ “ | Class X (15-60 extended term) | Class 1* | Up to 60 years extended term | Class 2 (max: 10 years)* | Up to 60 years extended term | Class 1* |
| | (a)(1.5)(B) 100-400 grams | Class X (9-40 extended term) | Class 1* | “ “ | “ “ | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 80 years extended term | Class 1 (max: 19 years)* | Up to 80 years extended term | Class 1 (6-30 extended term)* |
| | (a)(1.5)(C) 400-900 grams | Class X (12-50 extended term) | | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | | Up to 100 years extended term | | Up to 100 years extended term | |
| | (a)(1.5)(D) 900 or more grams | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | “ “ | Class 1 (9-40 extended term) ^b | Class X (15-60 extended term) | Class 1 (9-40 extended term)* | Up to 120 years extended term | Class 1 (max: 36 years)* | Up to 120 years extended term | Class 1 (9-40 extended term)* |
| Cocaine | (c)(2) 1-15 grams | Class 1 | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (a)(2)(A) 15-100 grams | Class X | Class 2* | “ “ | “ “ | Class X (15-60 extended term) | Class 1* | Up to 60 years extended term | Class 2 (max: 10 years)* | Up to 60 years extended term | Class 1* |
| | (a)(2)(B) 100-400 grams | Class X (9-40 extended term) | Class 1* | “ “ | “ “ | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 80 years extended term | Class 1 (max: 19 years)* | Up to 80 years extended term | Class 1 (6-30 extended term)* |
| | (a)(2)(C) 400-900 grams | Class X (12-50 extended term) | | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | | Up to 100 years extended term | | Up to 100 years extended term | |

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|------------------------------------|---|-------------------------------|-----------------------------------|---|--|-------------------------------|--------------------------------------|--------------------------|---|-------------------------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| | (a)(2)(D) 900 or more grams | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | " " | Class 1 (9-40 extended term) ^b | Class X (15-60 extended term) | Class 1 (9-40 extended term)* | Up to 120 years extended term | Class 1 (max: 36 years)* | Up to 120 years extended term | Class 1 (9-40 extended term)* |
| Morphine | (c)(3) 5-10 grams | -- | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (c)(3) 10-15 grams | Class 1 | | " " | " " | Class X (10-30 extended term) | | Up to 30 years extended term | | Class X | |
| | (a)(3)(A) 15-100 grams | Class X | Class 2* | " " | " " | Class X (15-60 extended term) | Class 1* | Up to 60 years extended term | Class 2 (max: 10 years)* | Up to 60 years extended term | Class 1* |
| | (a)(3)(B) 100-400 grams | Class X (9-40 extended term) | Class 1* | " " | " " | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 80 years extended term | Class 1 (max: 19 years)* | Up to 80 years extended term | Class 1 (6-30 extended term)* |
| | (a)(3)(C) 400-900 grams | Class X (12-50 extended term) | | " " | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | | Up to 100 years extended term | | Up to 100 years extended term | |
| | (a)(3)(D) 900 or more grams | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | " " | Class 1 (9-40 extended term) ^b | Class X (15-60 extended term) | Class 1 (9-40 extended term)* | Up to 120 years extended term | Class 1 (max: 36 years)* | Up to 120 years extended term | Class 1 (9-40 extended term)* |
| Peyote | New: (c)(4.5) 10-50 grams | -- | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (c)(4) 50-200 grams | Class 1 | Class 2 | " " | " " | Class X (10-30 extended) | Class 1* | Up to 30 years extended | Class 2 (max: 10)* | Class X | Class 1* |

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|--|---|----------|-----------------------------------|---|--|-------------------------------|--------------------------------------|--------------------------|---|-------------------------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| | (a)(4) 200 or more grams | Class X | Class 1* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 60 years extended term | Class 1 (max: 19 years)* | Up to 60 years extended term | Class 1 (6-30 extended term)* |
| Barbituric acid | New: (c)(5.5) 10-50 grams | -- | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (c)(5) 50-200 grams | Class 1 | Class 2 | “ “ | “ “ | Class X (10-30 extended term) | Class 1* | Up to 30 years extended term | Class 2 (max: 10 years)* | Class X | Class 1* |
| | (a)(5) 200 or more grams | Class X | Class 1* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 60 years extended term | Class 1 (max: 19 years)* | Up to 60 years extended term | Class 1 (6-30 extended term)* |
| Amphetamine or any optical isomer salt thereof | New: (c)(6.1) 10-50 grams | -- | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (c)(6) 50-200 grams | Class 1 | Class 2 | “ “ | “ “ | Class X (10-30 extended term) | Class 1* | Up to 30 years extended term | Class 2 (max: 10 years)* | Class X | Class 1* |
| | (a)(6) 200 or more grams | Class X | Class 1* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 60 years extended term | Class 1 (max: 19 years)* | Up to 60 years extended term | Class 1 (6-30 extended term)* |
| Lysergic acid diethylamide (LSD) | (c)(7) 5-15 grams or 10-15 objects containing LSD | Class 1 | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (a)(7)(A) 15-100 grams | Class X | Class 2* | “ “ | “ “ | Class X (15-60) | Class 1* | Up to 60 years | Class 2 (max:) | Up to 60 years | Class 1* |

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|--|---|-------------------------------|-----------------------------------|---|--|-------------------------------|--------------------------------------|--------------------------|---|-------------------------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| | or 15-200 objects containing LSD | | | | | extended term) | | extended term | 10 years)* | extended term | |
| | (a)(7)(B) 100-400 grams or 200-600 objects containing LSD | Class X (9-40 extended term) | Class 1* | “ “ | “ “ | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 80 years extended term | Class 1 (max: 19 years)* | Up to 80 years extended term | Class 1 (6-30 extended term)* |
| | (a)(7)(C) 400-900 grams or 600-1,500 objects containing LSD | Class X (12-50 extended term) | | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | | Up to 100 years extended term | | Up to 100 years extended term | |
| | (a)(7)(D) 900 or more grams or more than 1,500 objects containing LSD | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | “ “ | Class 1 (9-40 extended term) ^b | Class X (15-60 extended term) | Class 1 (9-40 extended term)* | Up to 120 years extended term | Class 1 (max: 36 years)* | Up to 120 years extended term | Class 1 (9-40 extended term)* |
| Other Drugs | (c)(7.5) 5-15 grams Or 10-15 objects containing controlled substance | Class 1 | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | Up to 30 years extended term | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (a)(7.5)(A) 15-100 grams or 15-200 objects containing controlled substance | Class X | Class 2* | “ “ | “ “ | Class X (15-60 extended term) | Class 1* | Up to 60 years extended term | Class 2 (max: 10 years)* | Up to 60 years extended term | Class 1* |
| | (a)(7.5)(B) 100-400 grams or 200-600 objects w/ controlled | Class X (9-40 extended term) | Class 1* | “ “ | “ “ | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 80 years extended term | Class 1 (max: 19 years)* | Up to 80 years extended term | Class 1 (6-30 extended term)* |

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|---|---|---|-------------------------------|-----------------------------------|---|--|-------------------------------|--------------------------------------|--------------------------|---|-------------------------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| | substance | | | | | | | | | | |
| | (a)(7.5)(C) 400-900 grams or 600-1,500 objects containing controlled substance | Class X (12-50 extended term) | Class 1 (6-30 extended term)* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (9-40 extended term)* | Up to 100 years extended term | Class 1 (max: 36 years)* | Up to 100 years extended term | Class 1 (9-40 extended term)* |
| | (a)(7.5)(D) 900 or more grams or more than 1,500 objects containing controlled substance | Class X (15-60 extended term) | | “ “ | Class 1 (9-40 extended term) ^b | Class X (15-60 extended term) | | Up to 120 years extended term | | Up to 120 years extended term | |
| Pentazocine, methaqualone, phencyclidine (PCP), ketamine, or any salts or isomers thereof | (c)(8.5), (9.5), (10.1), or (10.5-1)^a 5-10 grams | -- | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | -- | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (c)(8), (9), (10), or (10.5) 10-30 grams | Class 1 | Class 2 | “ “ | “ “ | Class X (10-30 extended term) | Class 1* | Up to 30 years extended term | Class 2 (max: 10 years)* | Class X | Class 1* |
| | (a)(8), (9), (10), or (10.5) 30 grams or more | Class X | Class 1* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 60 years extended term | Class 1 (max: 19 years)* | Up to 30 years extended term | Class 1 (6-30 extended term)* |
| Hydrocodone, dihydrocodeinone, oxycodone, or any salts or isomers thereof | (c)(10.6-1), (10.7-1), (10.8-1), or (10.9-1) 10-50 grams | -- | Class 3 | Twice minimum to twice maximum | Removed | Class X (10-30 extended term) | Class 2* | -- | Class 3 (max: 7 years)* | Class X | Class 2* |
| | (c)(10.6), (10.7), (10.8), or (10.9) 50- | Class 1 | Class 2 | “ “ | “ “ | Class X (10-30 extended | Class 1* | Up to 30 years extended | Class 2 (max: 10 | Class X | Class 1* |

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|--|---|----------|-----------------------------------|---|--|-------------------------------|--------------------------------------|--------------------------|---|-------------------------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| | 100 grams | | | | | term) | | term | years)* | | |
| | (a)(10.6), (10.7), (10.8), or (10.9), 100 grams or more | Class X | Class 1* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 60 years extended term | Class 1 (max: 19 years)* | Up to 30 years extended term | Class 1 (6-30 extended term)* |
| Any other Schedule I or Schedule II substance not otherwise included | (e) (new: (d)) less than 10 grams | Class 3 | Class 4 | Twice minimum to twice maximum | Removed | | | Up to 10 years extended term | Class 4 (max: 4 years) | Class 3 | Class 3 |
| | (e) (new: (c)(11.1)) 10-50 grams | Class 3 | Class 3 | “ “ | “ “ | Class X (10-30 extended term) | Class 2* | Up to 10 years extended term | Class 3 (max: 7 years)* | Class 3 | Class 2 |
| | (c)(11) 50-200 grams | Class 1 | Class 2 | “ “ | “ “ | Class X (10-30 extended term) | Class 1* | Up to 30 years extended term | Class 2 (max: 10 years)* | Class 1 | Class 1 |
| | (a)(11) 200 grams or more | Class X | Class 1* | “ “ | Class 1 (6-30 extended term) ^b | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Up to 60 years extended term | Class 1 (max: 19 years)* | Up to 30 years extended term | Class 1 (6-30 extended term)* |
| Any other Schedule III substance not otherwise included | (f-1) less than 10 grams | Class 3 | Class 4 | Twice minimum to twice maximum | Removed | | | Up to 10 years extended term | Class 4 (max: 4 years) | Class 3 | Class 3 |
| | (f) 10 grams or more | Class 3 | Class 3 | “ “ | Class 2 ^b | | | Up to 10 years extended term | Class 3 (max: 7 years)* | Class 3 | Class 2 |
| Any other Schedule IV substance not otherwise included | (g-1) less than 10 grams | Class 3 | Class 4 | Twice minimum to twice maximum | Removed | | | Up to 10 years extended term | Class 4 (max: 4 years) | Class 3 | Class 3 |
| | (g) 10 grams or more | Class 3 | Class 3 | “ “ | Class 2 ^b | | | Up to 10 years extended | Class 3 (max: 7 years)* | Class 3 | Class 2 |

| | | Manufacture and Deliver 720 ILCS 570/401 | | Trafficking 720 ILCS 570/401.1 | | Streetgang Drug Conspiracy 720 ILCS 570/405.2 | | Persons under 18 720 ILCS 570/407 | | Delivery at/near School 720 ILCS 570/407 | |
|--|-------------------------------------|---|----------|-----------------------------------|----------------------|--|----------|--------------------------------------|-------------------------|---|--------------|
| Drug Amounts Specifically Described: 720 ILCS 570/401 | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law (a)(1) | Proposed (a) | Current Law (a)(3) | Proposed (b) |
| Any other Schedule V substance not otherwise included | (h-1) less than 10 grams | Class 3 | Class 4 | Twice minimum to twice maximum | Removed | | | Up to 10 years extended term | Class 4 (max: 4 years) | Class 3 | Class 3 |
| | (h) 10 grams or more | Class 3 | Class 3 | “ “ | Class 2 ^b | | | Up to 10 years extended term | Class 3 (max: 7 years)* | Class 3 | Class 2 |
| 720 ILCS 570/404 Look-Alike Substance | (b) any look-alike substance | Class 3 | Class 4 | | | | | Up to 10 years extended term | Class 4 (max: 4 years) | Class 3 | Class 3 |

^a 720 ILCS 570/401(c)(10.1) and (10.5-1) are amended to cover the amounts of 1 to 10 grams.
^b 720 ILCS 570/401.1(b) applies to only trafficking of more than 400 grams of the controlled substance.

Note: the extended terms for Class 1 offenses are the prison terms for Class X felonies but, because they are not classified as Class X offenses, they are eligible for probation.

New: 720 ILCS 570/401(b-1), Manufacture and Delivery of Fentanyl – Under current law the judge must add three years to any Controlled Substance violation if the drug contained any amount of fentanyl. This provision is amended to make the three year enhancement discretionary and may be imposed only if the offender knew or should have known fentanyl was present in the drugs. The enhancement applies to any fentanyl manufacturing or delivery offense (720 ILCS 570 sections 401, 401.1, 405, 405.1, 405.2, or 407).

720 ILCS 570/401.1, Trafficking of a Controlled Substance – see **Table 44Table 35**.

New: 720 ILCS 570/401.1(b-5), Trafficking of a Controlled Substance – adds weight parameters for the charge of trafficking so that it applies only to delivery of over 400 grams of the controlled substance. The proposal also specifies a new enhanced term range (one class higher and, for extended Class 1 sentences, extra-extended Class 1 sentences) and applies manufacture and delivery penalties rather than the enhancement if the individual proves at sentencing that (1) he or she received little or no compensation and had minimal knowledge of the scope of the transportation or (2) he or she was not involved in the organization or planning of the transportation, manufacture, or delivery.

POSSESSION

Table 36. Possession of a Controlled Substance

| | | Possession 720 ILCS 570/402 | |
|--|---|--|----------|
| Drug Amounts Specifically Described: 720 ILCS 570/402 | | Current Law | Proposed |
| Any other amount | (c) any amount of controlled substance under the weights specified below | Class 4 | Class A |
| Heroin | (a)(1)(A) 15-100 grams | Class 1 | Class 3 |
| | (a)(1)(B) 100-400 grams | Class 1 (6-30 extended term) | Class 2 |
| | (a)(1)(C) 400-900 grams | Class 1 (8-40 extended term) | Class 1 |
| | (a)(1)(D) 900 or more grams | Class 1 (10-50 extended term) | |
| Fentanyl | NEW: (a)(1.5)(A) 15-100 grams | -- | Class 3 |
| | NEW: (a)(1.5)(B) 100-400 grams | -- | Class 2 |
| | NEW: (a)(1.5)(C) 400-900 grams | -- | Class 1 |
| Cocaine | (a)(2)(A) 15-100 grams | Class 1 | Class 3 |
| | (a)(2)(B) 100-400 grams | Class 1 (6-30 extended term) | Class 2 |
| | (a)(2)(C) 400-900 grams | Class 1 (8-40 extended term) | Class 1 |
| | (a)(2)(D) 900 or more grams | Class 1 (10-50 extended term) | |
| Morphine | (a)(3)(A) 15-100 grams | Class 1 | Class 3 |
| | (a)(3)(B) 100-400 grams | Class 1 (6-30 extended term) | Class 2 |
| | (a)(3)(C) 400-900 grams | Class 1 (6-40 extended term) | Class 1 |
| | (a)(3)(D) 900 or more grams | Class 1 (10-50 extended term) | |

| | | | Possession 720 ILCS 570/402 | |
|---|---|---|--|----------|
| Drug Amounts Specifically Described: 720 ILCS 570/402 | | | Current Law | Proposed |
| Peyote | (a)(4) | New: (a)(4.5) 15-200 grams | -- | Class 4 |
| | | 200 or more grams | Class 1 | Class 2 |
| Barbituric acid | (a)(5) | New: (a)(5.5) 15-200 grams | -- | Class 4 |
| | | 200 or more grams | Class 1 | Class 2 |
| Amphetamine or any optical isomer salt thereof | (a)(6) | New: (a)(6.1) 15-200 grams | -- | Class 4 |
| | | 200 or more grams | Class 1 | Class 2 |
| Lysergic acid diethylamide (LSD) | (a)(7)(A) 15-100 grams or 15-200 objects containing LSD | | Class 1 | Class 3 |
| | (a)(7)(B) 100-400 grams or 200-600 objects containing LSD | | Class 1 (6-30 extended term) | Class 2 |
| | (a)(7)(C) 400-900 grams or 600-1,500 objects containing LSD | | Class 1 (8-40 extended term) | Class 1 |
| | (a)(7)(D) 900 or more grams or more than 1,500 objects containing LSD | | Class 1 (10-50 extended term) | |
| Other Drugs | (a)(7.5)(A) 15-100 grams or 15-200 objects containing controlled substance | | Class 1 | Class 3 |
| | (a)(7.5)(B) 100-400 grams or 200-600 objects containing controlled substance | | Class 1 (6-30 extended term) | Class 2 |
| | (a)(7.5)(C) 400-900 grams or 600-1,500 objects containing controlled substance | | Class 1 (8-40 extended term) | Class 1 |
| | (a)(7.5)(D) 900 or more grams or more than 1,500 objects containing controlled substance | | Class 1 (10-50 extended term) | |
| Pentazocine, methaqualone, phencyclidine (PCP), ketamine, or any salts or isomers thereof | (a)(8), (9), (10), or (10.5) | New: (a)(8.5), (9.5), (10.1), or (10.6) 15-30 grams | -- | Class 3 |
| | | 30 grams or more | Class 1 | Class 2 |
| Any other Schedule I or Schedule II substance not otherwise included | (a)(11) | New: (a)(12) 15-200 grams | -- | Class 3 |
| | | 200 grams or more | Class 1 | Class 2 |
| Anabolic Steroid | (d) any anabolic steroid | First offense | Class C | Class C |
| | | Second offense | Class B | Class B |

| | | Possession 720 ILCS 570/402 | | |
|---|-------------------------------------|---------------------------------------|---------------|---------|
| Drug Amounts Specifically Described: 720 ILCS 570/402 | | Current Law | Proposed | |
| Possession of a Look-Alike Substance 720 ILCS 570/404 | | | | |
| 720 ILCS 570/404 Look-Alike Substance | (c) any look-alike substance | First offense | Petty offense | Removed |
| | | Second offense | Class C | |

720 ILCS 570/404, Possession of a Look-Alike Substance – see **Table 36**.

720 ILCS 570/405.2, Streetgang Drug Conspiracy – see **Table 35**.

New: 720 ILCS 570/407, Delivery of Controlled Substance to People under 18 – see **Table 35**. HB3355 HA1 amends the code so any offender over 18 who faces manufacture and delivery penalties for delivery to an individual under 18 years old and violates any part of Sections 401 or 404 may receive a sentence equal to the maximum sentence plus the minimum sentence. Also revises:

- When the crime occurs on school grounds, on a school bus, public park, or within 500 feet of a school during school hours and with students present, Subsection (b) applies a similar enhancement as Section 405.2 for all of penalties within Sections 401 or 404 by increasing the felony one level except for Class 1 felonies, for which an extended term is specified.
- HB3355 HA1 also removes additional enhancements for possession with intent on or within 1,000 feet of a truck stop or safety rest area.
- This bill also removes additional enhancements for possession with intent in public housing, religious house of worship, or senior housing.

New: 720 ILCS 570/407.1, Delivery of Controlled Substance Employing People under 18 – any offender over 18 who uses under 18-year old agents to manufacture and deliver controlled substances under Sections 401 or 404 may receive a sentence equal to the maximum sentence plus the minimum sentence rather than a mandatory term of up to three times the maximum under Sections 401, 404, or 405.

New: 720 ILCS 570/407.2, Delivery of Controlled Substance to a Pregnant Woman – amends the mandatory penalty from twice the maximum term to a term that is equal to the maximum plus the minimum terms for the underlying offense at the discretion of the court.

Repealed:

- **720 ILCS 570/405, Calculated Criminal Drug Conspiracy** – repeals the offense of calculated criminal drug conspiracy, a Class X felony.
- **720 ILCS 570/405.1, Criminal Drug Conspiracy** – repeals the offense of criminal drug conspiracy, which requires a term of imprisonment within the range of the underlying offense's sentence.
- **720 ILCS 570/408, Second or Subsequent Offenses** – repeals the discretionary enhancement of up to twice the maximum of the underlying offense.

- **720 ILCS 570/410** – withheld judgment supervision.

DRUG PARAPHERNALIA CONTROL ACT
POSSESSION OF DRUG PARAPHERNALIA

720 ILCS 600/3.5, *Possession of Paraphernalia* – amends cannabis paraphernalia possession to match the maximum fine of \$125 in the Cannabis Control Act.

METHAMPHETAMINE CONTROL AND COMMUNITY PROTECTION ACT
MANUFACTURE OR TRANSPORTATION OF METHAMPHETAMINE

Table 37. Manufacture or Transportation of Methamphetamines

| Drug Amounts Specifically Described | | Manufacture 720 ILCS 646 | |
|--|--|----------------------------------|----------------------------------|
| | | Current Law | Proposed |
| Participation in Manufacture (Section 15(a)) | (a)(2)(A) less than 15 grams | Class 1 | Class 2 |
| | (a)(2)(B) 15-100 grams | Class X | Class 1* |
| | (a)(2)(C) 100-400 grams | Class X (9-40 extended term) | Class 1 (6-30 extended term)* |
| | (a)(2)(D) 400-900 grams | Class X (12-50 extended term) | |
| | (a)(2)(E) 900 or more grams | Class X (15-60 extended term) | |
| Aggravated Participation ^a (Section 15(b)) | (b)(2)(A) less than 15 grams | Class X | Class 1* |
| | (b)(2)(B) 15-100 grams | Class X (9-40 extended term) | Class 1 (6-30 extended term)* |
| | (b)(2)(C) 100-400 grams | Class X (12-50 extended term) | |
| | (b)(2)(D) more than 400 grams | Class X (15-60 extended term) | |
| Methamphetamine Precursor (Section 20) ^b | (a)(2)(A) less than 15 grams | Class 2 | Class 4 |
| | (a)(2)(B) 15-30 grams | Class 1 | Class 3 |
| | (a)(2)(C) 30-150 grams | Class X | Class 2* |
| | (a)(2)(D) 150-500 grams | Class X (8-40 extended term) | Class 1* |
| | (a)(2)(E) more than 500 grams | Class X (10-50 extended) | Class 1 (6-30 extended)* |
| Anhydrous Ammonia (Section 25) ^c | (a)(2) any ammonia for manufacture | Class 1 | Class 2 |
| | (b)(2) aggravated ammonia for manufacture | Class X | Class 1* |
| | (c)(2) unauthorized ammonia storage ^c | Class 3 | Class 4 |
| | (d)(2) tampering with ammonia equipment | Class 3 | Class 3 |
| Methamphetamine Manufacturing Material (Section 30) | (b) possession of any other manufacturing material | Class 2 | Class 3 |

| | | Manufacture 720 ILCS 646 | |
|--|--|-------------------------------------|----------|
| Drug Amounts Specifically Described | | Current Law | Proposed |
| Use of Property for Meth (Section 35) | (b) possession of any other manufacturing material | Class 2 | Class 3 |
| Protection of Meth Manufacturing (Section 40) | (b) any lookout or security for manufacturing | Class 2 | Class 3 |
| Waste of Methamphetamine Materials (Section 45) | (b) any disposal of other manufacturing material | Class 2 | Class 3 |
| Methamphetamine-related Child Endangerment (Section 50) | (a)(2) knowingly endangers child | Class 2 | Class 2 |
| | (b)(2) child experiences death, great bodily harm, disability, or disfigurement | Class X | Class 1* |

A star (*) indicates the proposed change makes the offense eligible for probation.

^a 720 ILCS 646/15(a), aggravated participation in manufacturing, is amended by removing the aggravating factor of protection by firearms, alarm systems, surveillance systems, or guard dogs.

^b 720 ILCS 646/20(b) enhanced penalties for possession or transportation of methamphetamine precursors in non-standard dosage form, are removed.

^c 720 ILCS 646/56, trafficking of anhydrous ammonia, which is transportation of ammonia across state lines, can elevate this crime to methamphetamine trafficking; current law has the penalty of between twice the minimum and twice the maximum, the proposal is to make this crime one class higher than the underlying offense.

DELIVERY OR SALE OF METHAMPHETAMINE

Table 38. Delivery or Sale of Methamphetamines

| | | Delivery 720 ILCS 646/55(a) | | Aggravated Delivery 720 ILCS 646/55(b)^a | | Aggravated Delivery at a School 720 ILCS 646/55(b)^b | | Trafficking 720 ILCS 646/56^c | |
|-------------------------------------|---------------------|--|----------|---|--------------------------|---|-------------------------------|--|----------|
| Drug Amounts Specifically Described | | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed |
| (a)(2)(A) | Under 1 gram | Class 2 | Class 4 | Class 1 | Class 4 (max: 4 years) | Class 1 | Class 3 | Class 2 (6-14 extended term) | --* |
| | 1-5 grams | | Class 3 | | Class X | | Class 3 (max: 7 years)* | | |
| (a)(2)(B) 5-15 grams | | Class 1 | | | | | | Class X | Class 2* |
| (a)(2)(C) 15-100 grams | | Class X | Class 2* | Class X (8-40 extended term) | Class 2 (max: 10 years)* | Class X (8-40 extended term) | Class 1* | Class X (12-60 extended term) | --* |
| (a)(2)(D) 100-400 grams | | Class X (9-40 extended term) | Class 1* | Class X (10-50 extended term) | Class 1 (max: 19 years)* | Class X (10-50 extended term) | Class 1 (6-30 extended term)* | Class X (18-80 extended term) | --* |

| Drug Amounts Specifically Described | Delivery 720 ILCS 646/55(a) | | Aggravated Delivery 720 ILCS 646/55(b) ^a | | Aggravated Delivery at a School 720 ILCS 646/55(b) ^b | | Trafficking 720 ILCS 646/56 ^c | |
|-------------------------------------|--------------------------------|-------------------------------|--|--------------------------|--|-------------------------------|---|-------------------------------|
| | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed | Current Law | Proposed |
| (a)(2)(E) 400-900 grams | Class X (12-50 extended term) | Class 1* | Class X (10-50 extended term) | Class 1 (max: 19 years)* | Class X (10-50 extended term) | Class 1 (6-30 extended term)* | Class X (24-100 extended term) | Class 1 (6-30 extended term)* |
| (a)(2)(F) 900 or more grams | Class X (15-60 extended term) | Class 1 (6-30 extended term)* | Class X (10-50 extended term) | Class 1 (max: 36 years)* | Class X (10-50 extended term) | Class 1 (9-40 extended term)* | Class X (30-120 extended term) | Class 1 (9-40 extended term)* |

A star (*) indicates the proposed change makes the offense eligible for probation.

^a 720 ILCS 646/55(b), aggravated delivery of methamphetamine, which is delivery of meth (a) to an individual under 18, (b) employing a person under 18 in the delivery, (c) while protected by a firearm, (d) on school grounds, or (e) to a person known to be pregnant, is replaced by Sections 55.1, 55.2, 55.3, 55.4, and 55.5.

^b Possession on school grounds, Subsection 55(b)(1)(D), is revised into a new Section 55.4.

^c 720 ILCS 646/56, methamphetamine trafficking, also includes meth precursors and anhydrous ammonia. These penalties are likewise revised, similar to the proposed controlled substances trafficking sentences shown on the far right column.

720 ILCS 646/56, trafficking of anhydrous ammonia – see Table 38.

POSSESSION OF METHAMPHETAMINE

Table 39. Possession of Methamphetamines

| | | | Possession 720 ILCS 646/60 | |
|-------------------------------------|----------------------|-------------------------------|-------------------------------|----------|
| Drug Amounts Specifically Described | | | Current Law | Proposed |
| Meth Possession | (b)(1) | Under 1 gram | Class 3 | Class A |
| | | 1-5 grams | | |
| | (b)(2) 5-15 grams | | Class 2 | |
| | (b)(3) 15-100 grams | | Class 1 | Class 3 |
| | (b)(4) 100-400 grams | | Class X | Class 2* |
| | (b)(5) 400-900 grams | | Class X (8-40 extended term) | Class 1* |
| (b)(6) 900 or more grams | | Class X (10-50 extended term) | Class 1* | |

720 ILCS 646/65, Methamphetamine Conspiracy – repeals the offense of criminal methamphetamine conspiracy, which requires sentencing based on the cumulative weight of the conspiracy.

720 ILCS 646/100, Second or Subsequent Offenses – repeals the discretionary enhancement of up to twice the maximum of the underlying offense.

PROCEDURAL AND GENERAL SENTENCING REFORMS

New: 730 ILCS 5/5-4.5-95, *Habitual Criminals* – removes violations of the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act from the types of crimes that count towards habitual criminal penalties. Under the current law, the third felony conviction carries a habitual criminal sentence defined by the Class X sentence range and up to life.

New: 730 ILCS 5/5-5-3, *Dispositions* – restores probation eligibility for all cannabis, controlled substance, and methamphetamine crimes. This revision does not mandate probation, but probation becomes a possible sentence at the sentencing of an offender. However, this revision does not extend to mandatory incarceration for Illinois Vehicle Code violations based on cannabis or drug impairment.

Table 40. 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 |
| 75% reduced to 65% | (2)(vi) | Second or Subsequent Luring a Minor | 4.5 days/month | 8.5 days/month |
| | (2)(v) | Gunrunning | 7.5 days/month | 10.5 days/month |
| | (2)(v) | Drug-Induced Homicide | 7.5 days/month | 10.5 days/month |
| TIS Eliminated | (2)(v) | Aggravated Methamphetamine-Related Child Endangerment | 7.5 days/month | 10.5 days/month |
| | (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 |

APPENDIX D. Calculations

Table 41. Drug Offense Reform Calculation Example

| Description of Crime | | | | Current Cost Analysis | | | | Cost Analysis | |
|----------------------|--------------------------------------|----------------------|------------------|--------------------------|--------------------------|--------------------------|-------------------------|----------------------|---------------------------|
| Statute | Offense | Current Felony Class | New Felony Class | Total Admissions FY13-15 | Average Jail Time Served | Average IDOC Time Served | Average MSR Time Served | New Jail Time Served | New Probation Time Served |
| | | | | N | J | T | MSR | J' | P' |
| 720 ILCS 570/402(c) | Possession of a Controlled Substance | Class 4 | Class A | 7,399 | 0.41 years | 0.65 years | 0.88 years | 0.50 years | 2 years |

In the above example, the possession of controlled substance offenders will be divided between 6 months in jail or two years of probation. Multiplying the number of offenders admitted to prison (N), the average IDOC time served (T), and Dynamic Marginal Cost of prison (for 4,627-person change in the population due to this component of HB3355 HA1, a DMC of \$27,447) results in the current cost for this offense under the current system: \$124 million for prisons and \$18 million for MSR.

The same equation with the new jail time and probation results in the cost under the bill, finding \$4.5 million in costs avoided for jails and \$14 million in additional costs for probation. Note that the longer jail time served is offset by the fact that half the offenders (N/2) are instead receiving two-year probation sentences.

By adding the current costs and proposed costs for each felony offense, SPAC is able to estimate the expected impact for HB3355 HA1. The full results are shown below in **Table 42**.

Table 42. Results of Drug Reform Calculations

| Statute Description | | Change in Local Detention Costs | Change in Local Supervision Costs | Total Change in Local Costs | Change in State Prison Costs | Change in State MSR Costs | Total Change in State Costs | Victimization Benefits | Total Benefits |
|--|-------------------------------------|---------------------------------|-----------------------------------|-----------------------------|------------------------------|---------------------------|-----------------------------|------------------------|----------------------|
| Controlled Substances | Possession of Controlled Substance | \$4,616,041 | -\$14,238,600 | -\$9,622,559 | \$131,676,225 | \$19,254,934 | \$150,931,160 | -\$4,615,901 | \$136,692,700 |
| | Manufacture/Delivery or Trafficking | \$971,606 | -\$1,142,736 | -\$171,130 | \$107,531,354 | \$6,564,756 | \$114,096,110 | -\$3,521,871 | \$110,403,109 |
| Methamphetamine Control and Community Protection | Possession of Methamphetamine | \$113,478 | -\$1,202,358 | -\$1,088,880 | \$21,545,911 | \$1,677,298 | \$23,223,209 | -\$609,763 | \$21,524,566 |
| | Manufacture/Delivery or Trafficking | \$368,235 | -\$243,466 | \$124,769 | \$33,114,255 | \$1,014,436 | \$34,128,690 | -\$1,046,332 | \$33,207,127 |
| Cannabis Control | Possession of Cannabis | \$120,969 | -\$896,800 | -\$775,831 | \$6,461,239 | \$1,200,436 | \$7,661,676 | -\$200,353 | \$6,685,492 |
| | Manufacture/Delivery or Trafficking | \$208,208 | -\$959,424 | -\$751,216 | \$13,776,365 | \$1,394,988 | \$15,171,353 | -\$434,221 | \$13,985,915 |
| TOTAL | | \$6,398,538 | -\$18,683,384 | -\$12,284,846 | \$314,105,349 | \$31,106,848 | \$345,212,197 | -\$10,428,442 | \$322,498,909 |

* Local Detention costs are jail costs for the average length of pretrial detention credit days for these offenders and increases in misdemeanor sentences requiring jail incarceration.

* Local Supervision costs are the costs of probation for the average length of sentence given.

* State Supervision costs are mandatory supervised release (formerly parole) expenses for IDOC.

* Victimization Benefits are the expected value of reducing sentence lengths for offenders who recidivate and create costs to victims.

The overall victimization costs are shown above in **Table 42** as negative victimization benefits. The calculations supporting this estimate are below.

Table 43. Controlled Substances Act: Possession

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism Rate | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|---|---|------------------------|
| | P | $N \times P = N'$ | K | $L' - L = D$ | $K \times D = E$ | (Convictions : Recidivism) = Z | V3 | $N' \times E \times Z \times V3$ | |
| | 18 to 27 | 36.9% | 2,936 | -2.1% | -0.77 | 1.6% | 1.65 | -\$35,901 | -\$2,824,100.36 |
| | 28 to 36 | 28.6% | 2,272 | 0.3% | -0.77 | -0.2% | 1.65 | -\$35,901 | \$312,152.57 |
| | 37 to 50 | 29.6% | 2,354 | -0.7% | -0.77 | 0.5% | 1.65 | -\$35,901 | -\$754,679.72 |
| | Total | 100% | 7,949 | | | | | | -\$3,266,628 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | $L' - L = D$ | V1 | $V1 / [(1+0.03)^T] = V1'$ | $NPV = V1' - V1$ | N | $NPV \times N$ |
| | 1.11 | 0.34 | -0.77 | -\$7,342 | -\$7,512 | -\$170 | 7,949 | -\$1,349,274 |
| | | | | | | | Total | -\$1,349,274 |

| | |
|-------------------------------------|---------------------|
| Total Victimization Benefits | -\$4,615,901 |
|-------------------------------------|---------------------|

Table 44. Controlled Substances Act: Manufacture and Delivery

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism Rate | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|---|---|------------------------|
| | P | $N \times P = N'$ | K | $L' - L = D$ | $K \times D = E$ | (Convictions : Recidivism) = Z | V3 | $N' \times E \times Z \times V3$ | |
| | 18 to 27 | 36.9% | 2,247 | -2.1% | -0.74 | 1.6% | 1.65 | -\$35,901 | -\$2,081,920.11 |
| | 28 to 36 | 28.6% | 1,738 | 0.3% | -0.74 | -0.2% | 1.65 | -\$35,901 | \$230,118.14 |
| | 37 to 50 | 29.6% | 1,801 | -0.7% | -0.74 | 0.5% | 1.65 | -\$35,901 | -\$556,348.11 |
| | Total | 100% | 6,083 | | | | | | -\$2,408,150 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | $L' - L = D$ | V1 | $V1 / [(1+0.03)^T] = V1'$ | $NPV = V1' - V1$ | N | $NPV \times N$ |
| | 2.47 | 1.73 | -0.74 | -\$7,342 | -\$7,506 | -\$163 | 6,083 | -\$994,263 |
| | | | | | | | Total | -\$994,263 |

| | |
|-------------------------------------|---------------------|
| Total Victimization Benefits | -\$3,402,413 |
|-------------------------------------|---------------------|

The above charts exclude 45 admissions for other controlled substance offenses. These other controlled substance offense reforms would cause \$119,457 in additional victimization costs over three years.

Table 45. Methamphetamine Control and Community Protection Act: Possession

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism Rate | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|---|---|------------------------|
| | | 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 | 36.9% | 249 | -2.1% | -1.20 | 2.5% | 1.65 | -\$35,901 | -\$372,368.85 |
| | 28 to 36 | 28.6% | 193 | 0.3% | -1.20 | -0.4% | 1.65 | -\$35,901 | \$41,158.56 |
| | 37 to 50 | 29.6% | 200 | -0.7% | -1.20 | 0.8% | 1.65 | -\$35,901 | -\$99,507.52 |
| | Total | 100% | 674 | | | | | | -\$430,718 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | L' - L = D | V1 | $V1 / [(1+0.03)^T] = V1'$ | NPV = V1' - V1 | N | NPV x N |
| | 1.54 | 0.34 | -1.20 | -\$7,342 | -\$7,608 | -\$266 | 674 | -\$179,045 |
| | | | | | | | Total | -\$179,045 |

| | |
|-------------------------------------|-------------------|
| Total Victimization Benefits | -\$609,763 |
|-------------------------------------|-------------------|

Table 46. Methamphetamine Control and Community Protection Act: Manufacture

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism Rate | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|---|---|------------------------|
| | | 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 | 36.9% | 354 | -2.1% | -1.20 | 2.5% | 1.65 | -\$35,901 | -\$530,222.81 |
| | 28 to 36 | 28.6% | 274 | 0.3% | -1.20 | -0.4% | 1.65 | -\$35,901 | \$58,606.42 |
| | 37 to 50 | 29.6% | 284 | -0.7% | -1.20 | 0.8% | 1.65 | -\$35,901 | -\$141,690.57 |
| | Total | 100% | 958 | | | | | | -\$613,307 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | L' - L = D | V1 | $V1 / [(1+0.03)^T] = V1'$ | NPV = V1' - V1 | N | NPV x N |
| | 2.54 | 1.34 | -1.20 | -\$7,342 | -\$7,608 | -\$266 | 958 | -\$254,953 |
| | | | | | | | Total | -\$254,953 |

| | |
|-------------------------------------|-------------------|
| Total Victimization Benefits | -\$868,260 |
|-------------------------------------|-------------------|

Table 47. Methamphetamine Control and Community Protection Act: Delivery

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|--|---|------------------------|
| | | 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 | 36.9% | 64 | -2.1% | -1.23 | 2.6% | 1.65 | -\$35,901 | -\$98,176.14 |
| | 28 to 36 | 28.6% | 50 | 0.3% | -1.23 | -0.4% | 1.65 | -\$35,901 | \$10,851.57 |
| | 37 to 50 | 29.6% | 52 | -0.7% | -1.23 | 0.9% | 1.65 | -\$35,901 | -\$26,235.45 |
| | Total | 100% | 174 | | | | | | -\$113,560 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | L' - L = D | V1 | $V1 / [(1+0.03)^T] = V1'$ | NPV = V1' - V1 | N | NPV x N |
| | 2.26 | 1.03 | -1.23 | -\$7,342 | -\$7,614 | -\$271 | 174 | -\$47,224 |
| | | | | | | | Total | -\$47,224 |

| | |
|-------------------------------------|-------------------|
| Total Victimization Benefits | -\$160,784 |
|-------------------------------------|-------------------|

The above charts exclude 32 admissions for other meth offenses. These other meth offense reforms would cause \$17,289 in additional victimization costs over three years.

Table 48. Cannabis Control Act: Possession

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism Rate | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|---|---|------------------------|
| | | 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 | 36.9% | 210 | -2.1% | -0.47 | 1.0% | 1.65 | -\$35,901 | -\$122,740.87 |
| | 28 to 36 | 28.6% | 162 | 0.3% | -0.47 | -0.1% | 1.65 | -\$35,901 | \$13,566.75 |
| | 37 to 50 | 29.6% | 168 | -0.7% | -0.47 | 0.3% | 1.65 | -\$35,901 | -\$32,799.84 |
| | Total | 100% | 568 | | | | | | -\$141,974 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | L' - L = D | V1 | $V1 / [(1+0.03)^T] = V1'$ | $NPV = V1' - V1$ | N | $NPV \times N$ |
| | 0.95 | 0.48 | -0.47 | -\$7,342 | -\$7,445 | -\$103 | 568 | -\$58,379 |
| | | | | | | | Total | -\$58,379 |

| | |
|-------------------------------------|-------------------|
| Total Victimization Benefits | -\$200,353 |
|-------------------------------------|-------------------|

Table 49. Cannabis Control Act: Manufacture and Delivery

| Recidivism Benefits | Age Groups for Offenders | Percent of Offenders in Each Age Group | Number Offenders | Recidivism Rate Change per Year Older | Net Difference in Years | Predicted Recidivism Rate Change | Ratio of Conviction Rate to Recidivism Rate | Three Year Victimization Costs per Offender | Victimization Benefits |
|---------------------|--------------------------|--|------------------|---------------------------------------|-------------------------|----------------------------------|---|---|------------------------|
| | | 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 | 36.9% | 393 | -2.1% | -0.54 | 1.1% | 1.65 | -\$35,901 | -\$263,005.41 |
| | 28 to 36 | 28.6% | 304 | 0.3% | -0.54 | -0.2% | 1.65 | -\$35,901 | \$29,070.43 |
| | 37 to 50 | 29.6% | 315 | -0.7% | -0.54 | 0.4% | 1.65 | -\$35,901 | -\$70,282.51 |
| | Total | 100% | 1,064 | | | | | | -\$304,217 |

| 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 |
|-------------------------|------------------------|---------------------------------|---------------------|---|--|--|---------------------|------------------------|
| | L | L' | L' - L = D | V1 | $V1 / [(1+0.03)^T] = V1'$ | $NPV = V1' - V1$ | N | $NPV \times N$ |
| | 1.35 | 0.81 | -0.54 | -\$7,342 | -\$7,460 | -\$118 | 1,064 | -\$125,219 |
| | | | | | | | Total | -\$125,219 |

| | |
|-------------------------------------|-------------------|
| Total Victimization Benefits | -\$429,436 |
|-------------------------------------|-------------------|

The above charts exclude 23 admissions for other cannabis offenses. These other cannabis offense reforms would cause \$4,785 in additional victimization costs over three years.

Table 50. Truth-in-Sentencing Increased Recidivism Victimization

| 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 | $N \times P = N'$ | K | $L' - L = D$ | $K \times D = E$ | (Convictions : Recidivism) = Z | V3 | $N' \times E \times Z \times V3$ |
| | 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.

Table 51. Costs Due to Increased Victimization

| 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 | $NPV \times N$ |
| | 10.49 | 8.25 | 3.01 | -\$18,951 | -\$17,339 | -\$1,613 | 18,039 | -\$22,794,117 |
| | | | | | | | Total | -\$22,794,117 |

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