

## SENATE BILL 1968

REVISING SENTENCING FOR NON-VIOLENT OFFENDERS WITH LESS THAN FOUR MONTH STAYS  
730 ILCS 5/5-4-1 AND 730 ILCS 5/5-8-6

**PROJECTED IDOC POPULATION IMPACT: -21 PEOPLE ANNUALLY**

**TOTAL INCREASED FISCAL COSTS OVER THREE YEARS: \$91,564**

**TOTAL VICTIMIZATION COSTS FOR PROPOSED CHANGES OVER THREE YEARS: \$18,771**

**NET BENEFITS (BENEFITS MINUS COSTS): -\$110,335**

*A negative net benefit indicates that costs are greater than benefits*

Part of [SB1968](#) 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. The court calculates the time remaining on the sentence based only on the sentence imposed and the time served in pretrial detention.<sup>1</sup> The Illinois Department of Corrections (IDOC) still has custody of these people 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 1.** Costs and Benefits of Short-Term Reform over Three Years

SPAC Analysis of SB1968	
<b>Benefits from IDOC Housing Costs Avoided:</b> Not housing offenders in state prisons	\$213,525
<b>Additional Costs for IDOC:</b> Taxpayer costs for placement in alternative programs	\$305,089
<b>Victimization Costs:</b> Costs of recidivism events in less supervised settings	\$18,771
<b>Net Benefit:</b> <i>Benefits minus costs - negative net benefits are costs</i>	<b>-\$110,335</b>

**Table 1** shows the net effects of housing these people equally in the three alternative forms of custodial supervision. There are avoided costs of not housing these people 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 people are in the community rather than prison.

<sup>1</sup> Note: credit for pretrial custody time served is one of several potential credits. Others include statutory good-time credits, GED and education credits, and programming and substance abuse credits.

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 people 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) 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.<sup>2</sup>

Under current laws and policies, IDOC would still process and receive each person sentenced to their custody, which would result in no changes to intake costs.<sup>3</sup> Depending on the custody alternatives chosen, the additional costs of housing people on electronic detention, in ATCs, or other programs could also vary. Some people’s homes may not be appropriate for electronic home detention. Adult transition centers may not have sufficient bed space to accommodate people 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 2.** Types of Offenses Affected by Short-Term Reform below shows that 978 people 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.

**Table 2.** Types of Offenses Affected by Short-Term Reform

2016-2018 Admissions, Subject to SB1968	Frequency	Percent
Possession Controlled Substance	319	33%
UUW	218	22%
Theft	108	11%
Driving Revoked License	87	9%
DUI	85	9%
Possession Cannabis	23	2%
Fleeing	19	2%
Property Damage	18	2%
Manufacture or Delivery of Cannabis	17	2%
Other	84	9%
<b>Total</b>	<b>978</b>	<b>100%</b>

## SPAC PRISON POPULATION PROJECTION

To estimate the prison population impact of this reform, SPAC removed all admissions who had fewer than four months of their sentence remaining after subtracting the credit for time served in county jail. This does not account for any credits beyond the jail credit time served to reflect the language of SB1968. On average, the impact was about 21 fewer people in prison.

<sup>2</sup> The full report is available online: [http://www.icjia.state.il.us/spac/pdf/Illinois\\_Results\\_First\\_Consumer\\_Reports\\_072016.pdf](http://www.icjia.state.il.us/spac/pdf/Illinois_Results_First_Consumer_Reports_072016.pdf).

<sup>3</sup> See 730 ILCS 5/3-2-2(1)(a) and (b).

## SHORT-TERM STAY REFORM FISCAL IMPACT ANALYSIS

To calculate state spending on these offenses for 2016 through 2018, 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 person per year. SPAC used the marginal cost figure of \$8,005 per person, which represents the dynamic marginal cost of adding one additional person to prison for a year.<sup>4</sup> While this measure redirects over 900 people from IDOC over three years, the average daily prison population would drop by fewer than 25 people.

Every person sentenced to IDOC must go through the reception and classification (R&C) process at a designated facility where basic assessments of a person's health, substance abuse issues, and education needs are completed as required by law, or by IDOC policies and procedures. The average cost of the process is roughly \$2,000 and takes an average of two to three weeks. Eighty percent of this population is then released directly from the R&C facility. The remainder stay on average 10 days in prison. These days in prison require food, medicine, and other costs that vary with the number of people in custody. Using the marginal cost of prison in FY2018 (\$8,005), SPAC estimates \$214,000 in avoided costs from diverting these people to non-prison custody alternatives.

### **Additional Costs:**

Instead of prison, SB1968 requires that people 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).<sup>5</sup> Electronic home detention also requires staff time of IDOC's parole division. This cost would not be a marginal cost (vary by person). Because the average number of people 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 (\$68 per day).<sup>6</sup> The option to send people to "another facility or program within the Department of Corrections" has an unknown cost.<sup>7</sup>

IDOC would face \$305,000 in additional costs for supervising these people if each option were equally used—*i.e.*, a third are supervised by electronic home detention, a third in ATCs, and a 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 person would spend the same amount of time supervised by these services, or about three weeks.

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<sup>4</sup> See SPAC Supplement: Dynamic Marginal Costs, 2017, available at: [http://www.icjia.state.il.us/spac/pdf/Dynamic\\_Marginal\\_Costs.pdf](http://www.icjia.state.il.us/spac/pdf/Dynamic_Marginal_Costs.pdf).

<sup>5</sup> 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.

<sup>6</sup> Currently, IDOC's adult transition centers are used as transitional housing for people released from prison. This step-down process allows people 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 person to an ATC instead of a prison term.

<sup>7</sup> Because this cost is unknown, SPAC estimates these costs are equal to the marginal cost per person in an IDOC facility (\$17.54 per day).

If all affected people were sent to electronic detention, the lowest cost alternative, then this proposal would have \$45,000 in additional monitoring costs but the overall impact would be \$150,000 in net benefits to IDOC due to reduced prison costs. This outcome represents the maximum possible benefit of this proposal. However, not all people would qualify for electronic detention. Additionally, the capacity for electronic detention would need to be expanded, the cost of which is currently unknown.

**Table 3. 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
978	9.9	0.03	\$8,055	\$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
27	\$0	\$213,525	\$213,525

Type of Program	Number Added	Average Stay (days)	Marginal Cost per Day	Additional Costs for IDOC
Electronic Home Detention	326	9.9	\$4.66	\$15,032
Adult Transition Center	326	9.9	\$67.82	\$218,882
Other Facility	326	9.9	\$22.05	\$71,175
Total	978			\$305,089

**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 people that are eligible under this bill.
- Because of insufficient data on where people would have been placed had this bill been in effect, SPAC assumes an equal proportion of people 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 people 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 evidence-based community programs. The limited amount of time supervised in the community is not sufficient for a full program schedule.

**IMPACTS OF PROPOSED LEGISLATION:**

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

**IMPACT OF PROPOSED LEGISLATION ON STATE PRISONS:**

**\$91,564**

Additional costs over three years.

The above estimates reflect the total costs to IDOC that would have incurred had these policies been in place from 2016 through 2018. This estimate uses the annual marginal cost of \$8,005 per person. The avoided costs are due to fewer Class 4 and Class 3 felony offenders entering prison with short sentences. For these affected people, IDOC still needs to pay for intake's 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 determination at sentencing on whether the defendant has fewer than four months remaining on his or her sentence accounting for time served may consume additional administrative resources.

**IMPACT OF PROPOSED LEGISLATION ON VICTIMS AND COMMUNITIES:**

**\$18,771**

Additional victimization costs over three years.

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

**Table 4** lists the victimization costs caused by people affected by SB1968 in the past, within both one and three years from release. The table shows the costs of no longer incapacitating these people as well as the costs of younger people, who are more likely to recidivate, remaining in the community.

**Table 4.** 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	$NPV \times N$
	0.03	0.00	-0.03	\$1,629	\$1,631	-\$1.31	978	-\$1,277
<b>Total</b>							<b>978</b>	<b>-\$1,277</b>

  

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	$N \times P = N'$	K		$L' - L = D$	$K \times D = E$	(Convictions : Recidivism) = Z	V3
	18 to 27	39.3%	384	-2.1%	-0.03	0.1%	1.65	-\$44,093	-\$15,900
	28 to 36	24.2%	237	0.3%	-0.03	0.0%	1.65	-\$44,093	\$1,402
	37 to 50	22.2%	217	-0.7%	-0.03	0.0%	1.65	-\$44,093	-\$2,996
<b>Total</b>		<b>100%</b>	<b>978</b>						<b>-\$17,494</b>

  

	Dollar Value From 2014 to 2016
<b>Total Victimization Benefits</b>	<b>-\$18,771</b>

**DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:**

Examining the geographic distribution of incoming people affected by SB1968’s short-term reforms shows that 89% of the people affected come from Cook, and another 7% come from Collar counties.

**Table 5.** Geographic Distribution of Short-Term Reforms

County	Number of Admissions	Percent
Cook	873	89%
Will	35	4%
Winnebago	13	1%
DuPage	13	1%
Lake	11	1%
Kane	5	1%
Peoria	3	0%
Stephenson	2	0%
Madison	2	0%
McHenry	2	0%
Other	19	2%
<b>Total</b>	<b>978</b>	<b>100%</b>

Of all the admissions, 90% are male. In the table below, **Table 6**, the race and gender of people impacted by SB1968 is described. The majority of people are Black, with Whites making up the second largest group. Race is self-identified upon admission to prison. The “Other” includes Asian/Island Pacific, Native American, and Unknown races.

**Table 6.** Short-Term Reform Race & Gender Impact

	Male	Female	Total	Percent
Black	641	57	698	71%
White	108	24	132	13%
Hispanic	131	6	137	14%
Other	7	4	11	1%
<b>Total</b>	<b>91%</b>	<b>9%</b>	<b>978</b>	<b>100%</b>