

## SENATE BILL 1971

### PROJECTED IDOC POPULATION IMPACT, CUMULATIVE: **-6,000 PEOPLE ANNUALLY**

*Note: this is a partial projection due to data limitations*

**PARTIAL FISCAL COSTS AVOIDED OVER THREE YEARS: between \$465 and \$538 million**

**PARTIAL VICTIMIZATION COSTS OVER THREE YEARS: \$18 million**

**PARTIAL NET BENEFITS (BENEFITS MINUS COSTS): between \$447 and \$520 million**

The summary below breaks down the fiscal and population impacts of the separate provisions in Senate Bill 1971 ([SB1971](#)).<sup>1</sup> As a whole, the bill would reduce the average daily prison population by approximately 6,000 people. Had this bill been in effect for the past three years, it would have caused between \$465 and \$538 million in avoided system costs and increased victim costs by \$18 million over three years. The full SPAC analysis of this bill is included in the report below.

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#### **Special Prosecutor Appointment, p. 1:**

- Amends the rules regarding appointment of special prosecutors in police-involved deaths for Cook County. This proposal would not affect sentencing or prison populations and is not analyzed here.

#### **Theft and Retail Theft, p. 5:**

- Raises felony-theft threshold to \$2,000 for theft and retail theft offenses; only prior felony theft can be the basis for automatic enhancement of felony class.
- Annual Prison Population Impact: **-900**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Reform Commission Recommendation #10

#### **Drug Penalties, p. 16:**

- Decreases drug offenses one felony class; increases eligibility for qualified probation programs; limits extended term sentences for drug offenses.
- Annual Prison Population Impact: **-3,400**
- Costs Avoided Over Three Years: **\$359 million**
- Victimization Costs Over Three Years: **\$11 million**
- Total Net Benefits Over Three Years: **\$349 million**
- Reform Commission Recommendations #15 & 16

#### **Mandatory Supervised Release, p. 206:**

- Decreases the supervision length for each felony class.
- Annual Prison Population Impact: **unknown**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Reform Commission Recommendation #24

#### **Truth-in-Sentencing, p. 116:**

- Allows 7.5 days of credit per month for those currently getting zero credit; increases credits from 4.5 to 8.5 and from 7.5 to 10.5 per month for specified offenses; applicable to current inmates after the effective date; no credit for time served prior to effective date.
- Annual Prison Population Impact: **-1,900**
- Costs Avoided Over Three Years: **\$106-\$180 million**
- Victimization Costs Over Three Years: **\$7 million**
- Total Net Benefits Over Three Years: **\$99-\$173 million**
- Reform Commission Recommendation #19

#### **Prohibit Use of Prison for Felons with Short Lengths of Stay, p. 145 and 210:**

- Prohibits admission to a prison facility for people projected to stay in prison for under four months; authorizes IDOC to divert to other custody options.
- Annual Prison Population Impact: **-21**
- Increased Costs Over Three Years: **\$92,000**
- Victimization Costs Over Three Years: **\$19,000**
- Total Net Benefits Over Three Years: **-\$110,000**
- Reform Commission Recommendation #9

#### **Habitual Criminal (Three Strikes), p. 147:**

- 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: **-190**
- Costs Avoided Over Three Years: **unknown**
- Victimization Benefits Over Three Years: **unknown**
- Reform Commission Recommendation #14

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<sup>1</sup> Each section includes the bill page number and references the final report of the Illinois Commission on Criminal Justice and Sentencing Reform (Rec. #) for each provision. For the full 2016 Commission report, please see [http://www.icjia.org/cjreform2015/pdf/CJSR\\_Final\\_Report\\_Dec\\_2016.pdf](http://www.icjia.org/cjreform2015/pdf/CJSR_Final_Report_Dec_2016.pdf).

**Expand Probation and Qualified Probation Eligibility, p. 27, 78, 110, 172, and 193:**

- 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**
- Reform Commission Recommendation #11

**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 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.
- **The fiscal impacts are retrospective based on the past three years and the total costs and benefits represent what would have occurred had the changes individually 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.<sup>2</sup>
- The costs per year of resource use are generated from SPAC’s analysis of past spending across the criminal justice system,<sup>3</sup> using a dynamic marginal cost that depends on the size of the impact.<sup>4</sup>

**Data Sources:**

- Criminal History Record Information, July 2015-June 2018
- Illinois Department of Corrections data, FY2016-FY2018
- National Incident-Based Reporting System, 2016

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<sup>2</sup> SPAC Victimization Supplement, 2015, available at: [http://www.icjia.state.il.us/spac/pdf/Victimization\\_Supplement\\_0415.pdf](http://www.icjia.state.il.us/spac/pdf/Victimization_Supplement_0415.pdf).

<sup>3</sup> SPAC Quantifying County Adult Criminal Justice Costs in Illinois, 2016, available at:

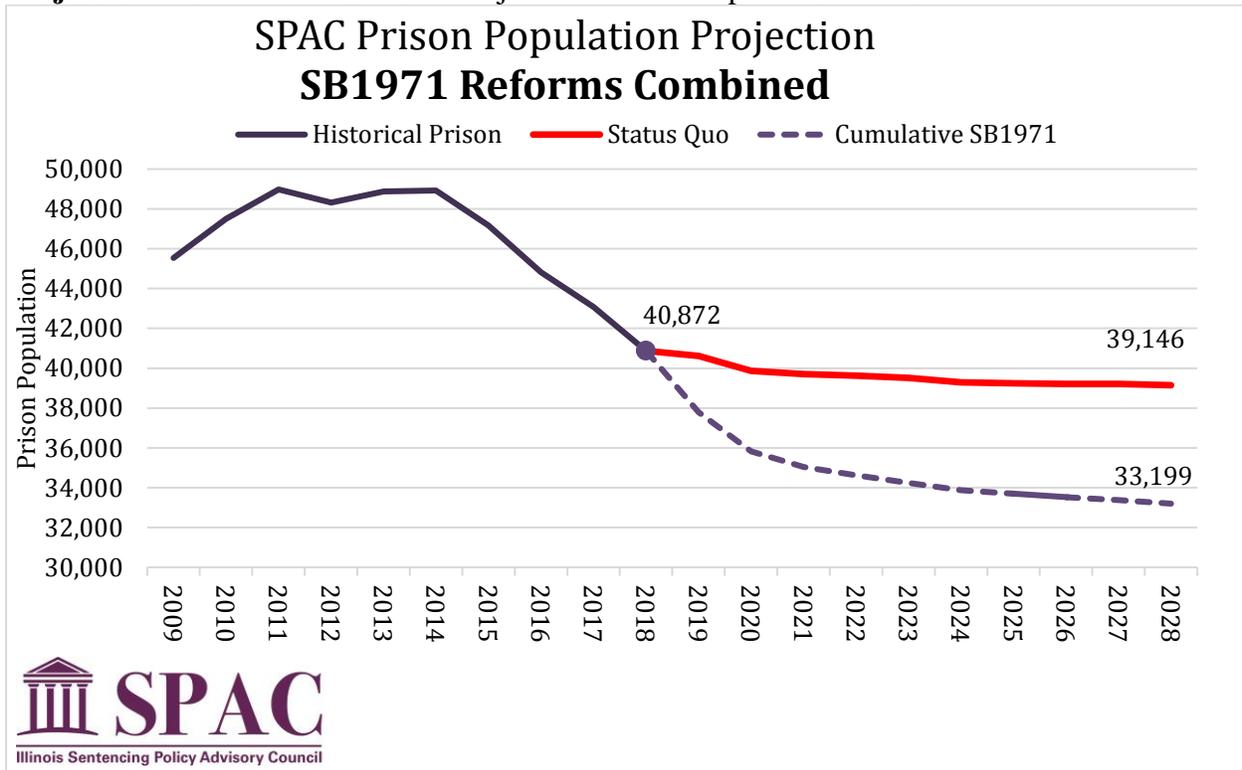
April 2019

[http://www.icjia.state.il.us/spac/pdf/Quantifying\\_County\\_Adult\\_Criminal\\_Justice\\_Costs\\_in\\_Illinois\\_120616.pdf](http://www.icjia.state.il.us/spac/pdf/Quantifying_County_Adult_Criminal_Justice_Costs_in_Illinois_120616.pdf).

<sup>4</sup> SPAC Supplement: Dynamic Marginal Costs, 2018, available at: [http://www.icjia.state.il.us/spac/pdf/Dynamic\\_Marginal\\_Costs\\_2018\\_Update.pdf](http://www.icjia.state.il.us/spac/pdf/Dynamic_Marginal_Costs_2018_Update.pdf).

## SPAC PRISON POPULATION PROJECTION – CUMULATIVE

### Projection 1. Cumulative SB1971 Projection – All Components Enacted



A population projection answers the question “What if these policies were enacted?” In Projection 1 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, 2028, the status quo projection estimates 39,146 people would be held in prison. The dotted line answers the what if question: If the components of SB1971 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 by roughly 6,000 people as a result of the cumulative effect of these provisions. Other portions of SB1971 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, FY2018. The changes between the status quo and SB1971 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, earned, 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. SB1971 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, the Rockford Police Department*. The projection took the midpoint between the national average and the average value in Rockford, Illinois.
  - b. For people convicted of theft, SPAC reduced the number of admissions to account for 70% of those who received felony convictions instead receiving misdemeanor convictions because of HB1614. SPAC derived these percentages from analysis of NIBRS data from 2016, including information available from Rockford, Illinois, in the national dataset.
  - c. For people convicted of retail theft, SPAC reduced the number of admissions to account for 94% of those who received felony convictions instead receiving misdemeanor convictions because of HB1614. SPAC derived these percentages from analysis of NIBRS data from 2016, including information available from Rockford, Illinois, in the national dataset.
  - d. For all the above crimes, SPAC assumes no change in arrests, charges, convictions, or sentencing other than the above modifications.
2. Drug reform:
  - a. The felony class for each offense is adjusted according to SB1971 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 these admissions will be 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 SB1971, 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 repealed by SB1971.
3. Truth-in-sentencing:
  - a. For the current prison 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 both concurrent and consecutive sentences.
  - c. SPAC assumes that time served for technical revocations for people subject to TIS do not substantially change. In practice, technical violators subject to TIS would receive more good-time credit and potentially would 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. SPAC removes all admissions with four months or less of their sentence remaining after subtracting the credit for time served in county jail.
- 5. Habitual criminal enhancements:
  - a. SPAC identified admissions that were recorded 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 person 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 qualified 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

FELONY DOLLAR THRESHOLDS FOR THEFT AND RETAIL THEFT  
720 ILCS 5/16-1 AND 720 ILCS 5/16-25

**PROJECTED IDOC POPULATION IMPACT: –900 PEOPLE ANNUALLY**

### INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

The theft and retail theft components of [SB1971](#) increase the property value threshold for felony theft and retail theft 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 records information (CHRI) from state fiscal years 2016, 2017, and 2018 to calculate the number of arrests, convictions, and sentences for theft and retail theft. SPAC used IDOC data from the same years for IDOC admissions, exits, and prison population. During the past three years, the data show:

**Table 1.** Theft and Retail Theft

Three Years		Theft	Retail Theft
Arrests		28,043	51,983
Convictions		9,511	16,982
Withheld Judgements		2,762	6,821
Standard Probation	<i>Class 1</i>	65	-
	<i>Class 2</i>	328	7
	<i>Class 3</i>	2,155	2,031
	<i>Class 4</i>	577	2,574
	Total Probation	4,201	5,867
IDOC Admissions	<i>Class X</i>	-	-
	<i>Class 1</i>	44	-
	<i>Class 2</i>	97	901
	<i>Class 3</i>	1,081	2
	<i>Class 4</i>	682	2,370
Total Prison	1,913	3,273	
June 30,2018 Prison Population	<i>Class X</i>	8	-
	<i>Class 1</i>	45	-
	<i>Class 2</i>	60	2
	<i>Class 3</i>	414	227
	<i>Class 4</i>	203	310
Total Prison Population	730	539	
Average Sentence Imposed		2.84	1.85
Average Pretrial Detention Time Served		0.57	0.46
Average Prison Time Served		0.95	0.63

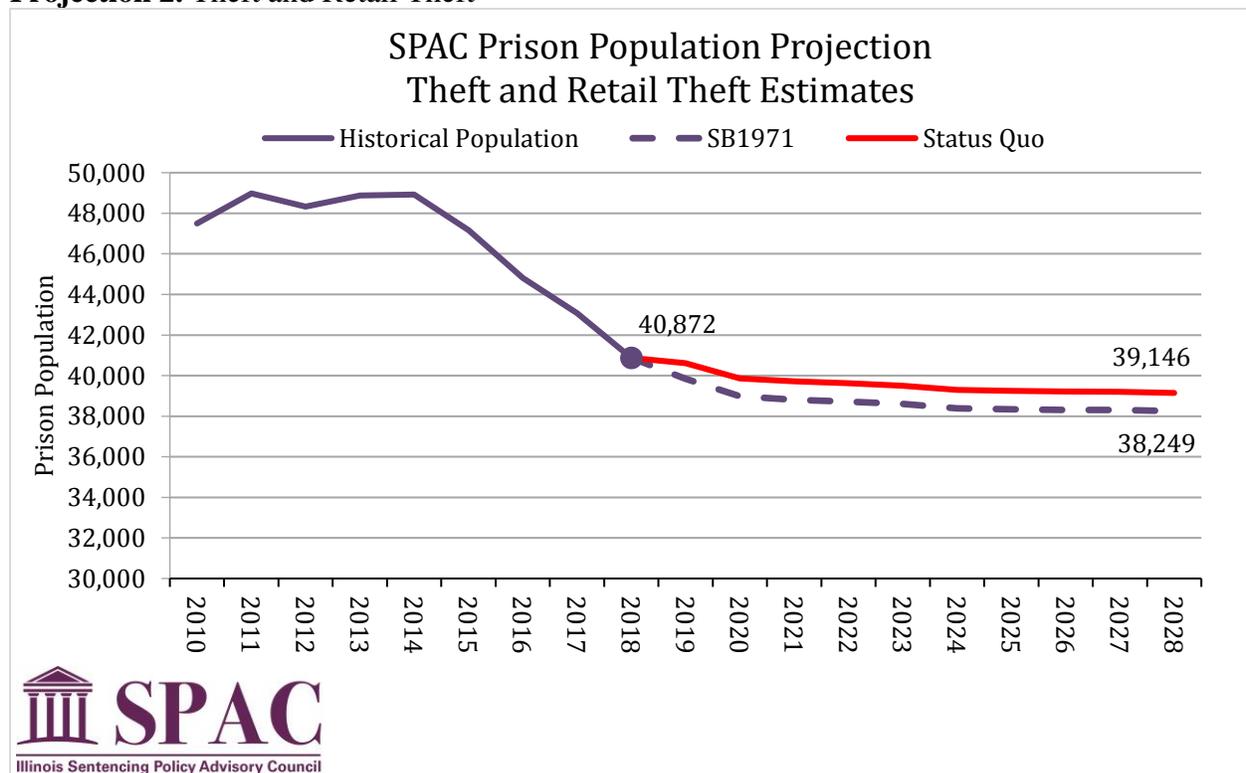
The value of the property stolen or damaged is an element of both of these offenses;<sup>5</sup> however, Illinois data do not include these values. SPAC uses the National Incident-Based Reporting System

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

(NIBRS) to analyze the dollar value of property crimes.<sup>6</sup> 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 –SB1971 THEFT/RETAIL THEFT COMPONENT

**Projection 2. Theft and Retail Theft**



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

2. Theft and retail theft:
  - a. SB1971 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*

<sup>6</sup> National Archive of Crime Justice Data, Uniform Crime Reporting Program Data: National Incident-Based Reporting System, 2016 (ICPSR 37066), available at <https://www.icpsr.umich.edu/icpsrweb/NACJD/studies/37066>.

***NIBRS-compliant jurisdiction in Illinois is the Rockford Police Department.***

The projection took the midpoint between the national average and the average value in Rockford, Illinois.

- b. For people convicted of theft, SPAC reduced the number of admissions to account for 70% of those who received felony convictions instead receiving misdemeanor convictions because of HB1614. SPAC derived these percentages from analysis of NIBRS data from 2016, including information available from Rockford, Illinois, in the national dataset.
- c. For people convicted of retail theft, SPAC reduced the number of admissions to account for 94% of those who received felony convictions instead receiving misdemeanor convictions because of HB1614. SPAC derived these percentages from analysis of NIBRS data from 2016, including information available from Rockford, Illinois, in the national dataset.
- d. For all the above crimes, SPAC assumes no change in arrests, charges, convictions, or sentencing other than the above modifications.

**THEFT**

**720 ILCS 5/16-1**

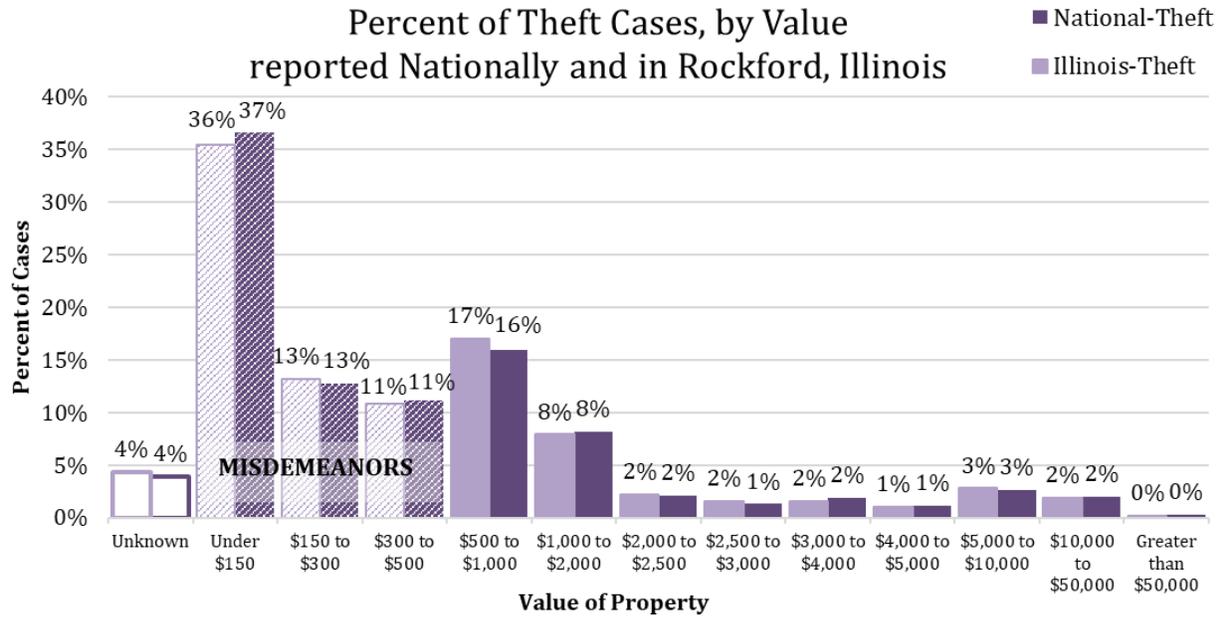
Under current law, most thefts for items valued at less than \$500 are classified as misdemeanors. Analysis of NIBRS data shows that roughly 60% of thefts are for items valued at less than \$500. SB1971 increases the property value thresholds, which increases the number of offenses that would be classified as misdemeanors and decreases the number of incarcerated people convicted under a Class 4 felony. Analysis of NIBRS data reported in Rockford, Illinois shows:

- For SB1971, 25% of known theft incidents fall between \$500 and \$2,000 in property stolen.
- 4% 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

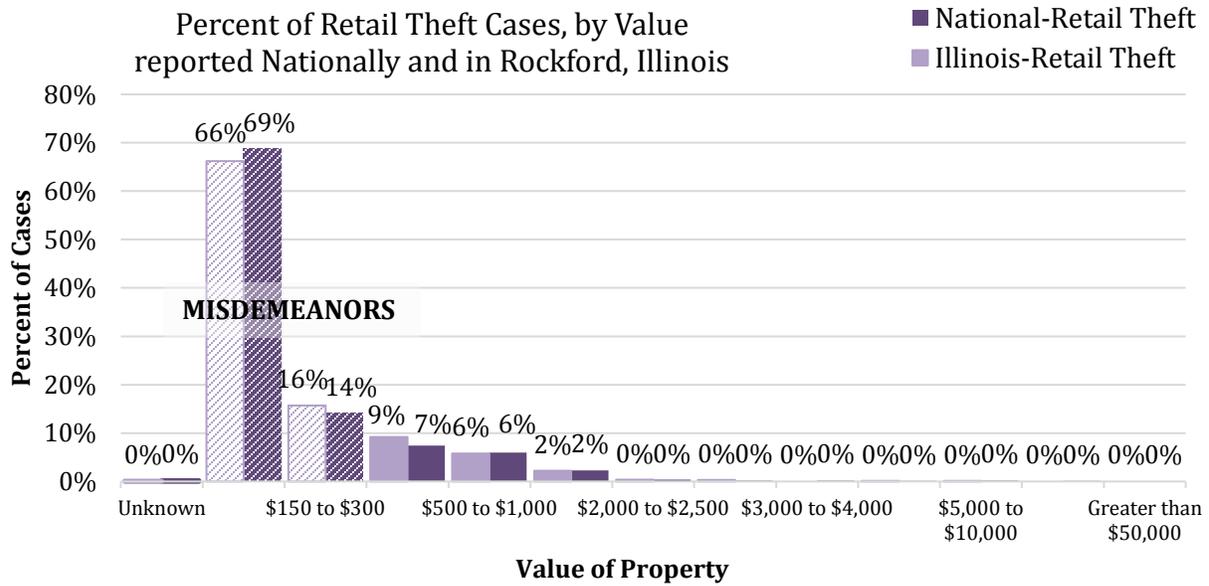
Under current law, most retail thefts for items valued at less than \$300 are classified as misdemeanors. Analysis of NIBRS data shows that roughly 83% of retail thefts are for items valued at less than \$300. SB1971 increases the property value thresholds for a felony, which decreases the number of people 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 SB1971, 17% of known retail theft incidents fall between \$300 and \$2,000 in property stolen.
- 1% 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 Asian/Island Pacific, Native American, and Unknown races.

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

	Male	Female	Total	Percent
Black	773	51	824	46%
White	698	133	831	46%
Hispanic	120	10	130	7%
Other	6	3	9	1%
<b>Total</b>	<b>89%</b>	<b>11%</b>	<b>1,794</b>	<b>100%</b>

**Table 3. Past Three Years Admissions to IDOC for Retail Theft by Race & Gender**

	Male	Female	Total	Percent
Black	1,408	362	1,770	54%
White	842	398	1,240	38%
Hispanic	181	51	232	7%
Other	22	8	28	1%
<b>Total</b>	<b>75%</b>	<b>25%</b>	<b>3,272</b>	<b>100%</b>

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

	<b>Collar</b>	<b>Cook</b>	<b>Rural</b>	<b>Urban</b>	<b>Percent</b>
Black	138	489	48	149	<b>46%</b>
White	112	115	402	202	<b>46%</b>
Hispanic	26	90	7	7	<b>7%</b>
Other	2	3	3	1	<b>1%</b>
<b>Total</b>	<b>15%</b>	<b>39%</b>	<b>26%</b>	<b>20%</b>	<b>1,794</b>

**Table 5. Race by Geographic Region over the Past Three Years for Retail Theft**

	<b>Cook</b>	<b>Collar</b>	<b>Urban</b>	<b>Rural</b>	<b>Percent</b>
Black	1,173	206	310	81	<b>54%</b>
White	324	232	377	307	<b>38%</b>
Hispanic	164	47	9	12	<b>7%</b>
Other	10	10	8	2	<b>1%</b>
<b>Total</b>	<b>51%</b>	<b>15%</b>	<b>22%</b>	<b>12%</b>	<b>3,272</b>

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

<b>County</b>	<b>Number of Admissions</b>	<b>Percent</b>
Cook	697	39%
Lake	98	6%
Will	86	5%
Madison	65	4%
Champaign	62	4%
DuPage	56	3%
Macon	37	2%
Sangamon	37	2%
Winnebago	33	2%
Peoria	31	2%
Other	592	34%
<b>Total</b>	<b>1,794</b>	<b>100%</b>

**Table 7.** Top 10 Admitting Counties over the Past Three Years for **Retail Theft**

<b>County</b>	<b>Number of Admissions</b>	<b>Percent</b>
Cook	1,671	51%
Will	176	5%
DuPage	163	5%
Sangamon	102	3%
Lake	92	3%
St. Clair	91	3%
Winnebago	86	3%
Peoria	73	2%
Madison	71	2%
Macon	69	2%
Other	678	21%
<b>Total</b>	<b>3,272</b>	<b>100%</b>

# DRUG OFFENSE REFORM

CHANGES TO PENALTIES FOR DRUG CRIMES:

CANNABIS CONTROL ACT, CONTROLLED SUBSTANCES ACT, AND METHAMPHETAMINE CONTROL AND  
COMMUNITY PROTECTION ACT

720 ILCS 550, 720 ILCS 570, AND 720 ILCS 646

**PROJECTED IDOC POPULATION IMPACT: -3,400 PEOPLE ANNUALLY**

**TOTAL FISCAL COSTS AVOIDED OVER THREE YEARS: \$359.2 million**

**TOTAL VICTIMIZATION BENEFITS OVER THREE YEARS: \$10.6 million**

**NET BENEFITS (BENEFITS MINUS COSTS): \$348.7 million**

**Table 8.** 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	\$215,397,150	\$84,119,111	\$131,278,039	-\$4,428,970	\$126,849,069
	Manufacture/Delivery or Trafficking	\$317,024,871	\$168,450,621	\$148,574,250	-\$4,572,062	\$144,002,188
Methamphetamine Control and Community Protection 720 ILCS 646	Possession of Methamphetamine	\$50,389,519	\$17,813,872	\$32,575,646	-\$875,618	\$31,700,029
	Manufacture/Delivery or Trafficking	\$71,929,113	\$39,511,555	\$32,417,558	-\$837,828	\$31,579,730
Cannabis Control 720 ILCS 550	Possession of Cannabis	\$14,498,405	\$10,578,587	\$3,919,818	-\$120,751	\$3,799,066
	Manufacture/Delivery or Trafficking	\$33,857,878	\$23,398,506	\$10,459,373	\$276,201	\$10,735,574
<b>TOTAL</b>		<b>\$703,096,936</b>	<b>\$343,872,252</b>	<b>\$359,224,684</b>	<b>-\$10,559,029</b>	<b>\$348,665,655</b>

\* 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.

Source: CHRI and IDOC data, SPAC calculations

This component of [SB1971](#) (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. 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 54.

SB1971 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 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 9.** Total Change in Costs over Three Years

Change in:	Three Year Value of Benefits
Local Detention Benefits	\$37,863,075
Local Probation Benefits	-\$25,600,008
Total Local Costs Avoided	\$12,263,066
State Prison Benefits	\$310,021,323
State MSR Benefits	\$36,940,295
Total State Costs Avoided	\$346,961,618
<b>Total Costs Avoided</b>	<b>\$359,224,684</b>
Victim Costs	-\$10,559,029
<b>Total Benefits</b>	<b>\$348,665,655</b>

**Table 9.** Total Change in Costs over Three Years shows where the benefits and costs occur in the system. IDOC would avoid \$310 million in prison costs and \$37 million in supervision costs over three years, whereas local governments would see an increase in probation caseloads (\$26 million in additional supervision costs) and a decrease in pretrial detention jail populations (\$37 million in costs avoided), causing a net positive of \$12 million over three years.

The reduction in prison sentences would also reduce incapacitation periods and return people 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 \$11 million over three years.

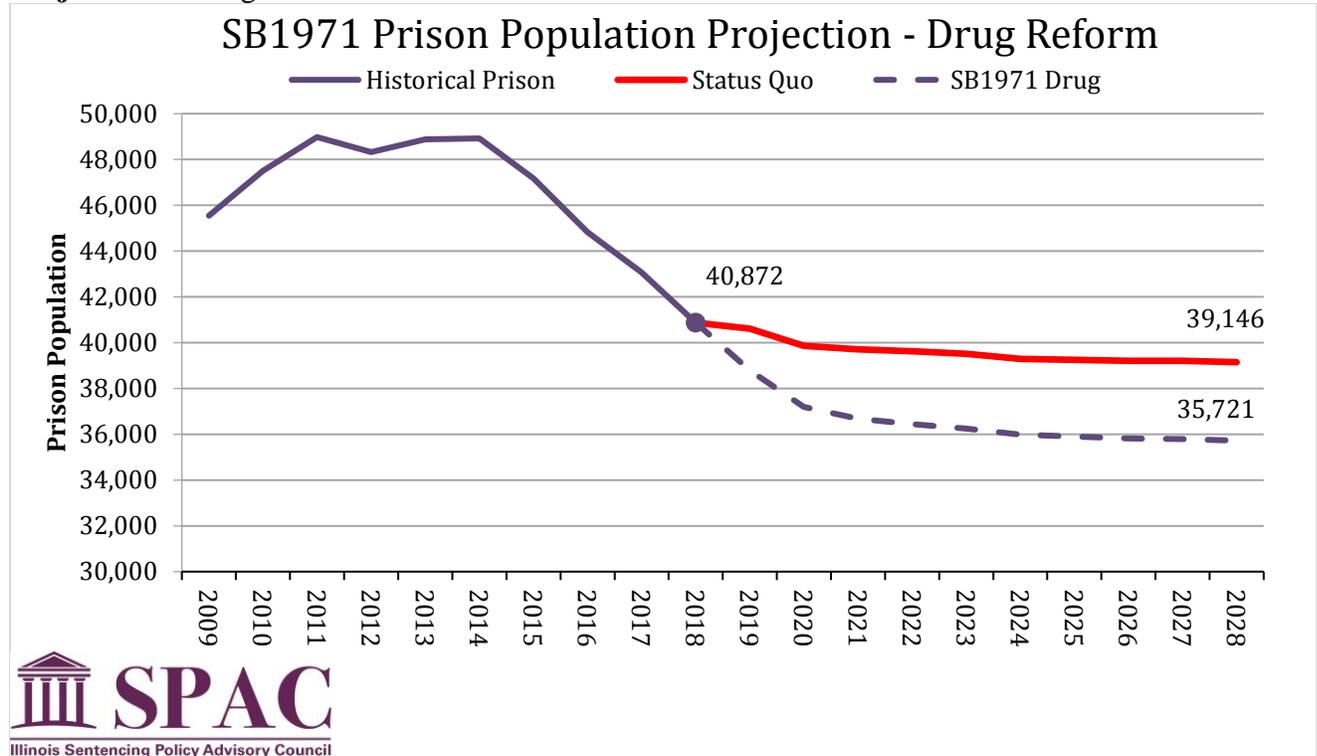
Had SB1971 been in effect over the past three years, the total net benefits of SB1971 are \$348.7 million over those three years. To derive this number, SPAC used criminal history (CHRI) and IDOC data from SFY 2016, 2017, and 2018 for IDOC admissions, exits, and prison population. The total number of people impacted is shown below.

**Table 10.** Number of People Impacted by SB1971

Act	Statutory Citations	Arrested	Convicted	Admitted to Prison
Controlled Substances	720 ILCS 570 et seq.	73,766	25,803	11,128
Methamphetamine Control and Community Protection	720 ILCS 646 et seq.	11,927	4,700	2,330
Cannabis Control	720 ILCS 550 et seq.	50,531	7,725	987
<b>TOTAL</b>		<b>136,224</b>	<b>38,228</b>	<b>14,445</b>
<p>* 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.</p>				

## SPAC PRISON POPULATION PROJECTION – SB1971 DRUG COMPONENT

### Projection 3. Drug Offense Reform



On June 30, 2028, the status quo projection estimates 39,146 people would be held in prison. The dotted lines answer the what if question: If the drug component of SB1971 were enacted, there would be over 3,000 fewer people in prison compared to the status quo on June 30, 2028. 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 SB1971 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 SB1971, 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 by those with enhancements (*i.e.*, delivery

near a school or protected place). This method is also applied to aggravated offenses that are repealed by SB1971.

**The projection model includes continuous admissions in future years. SPAC’s fiscal impact analyses are retrospective and only examine the actual admissions and prison populations of 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, 2016 through 2018, 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 Record Information and from the IDOC’s Planning and Research Division (past three fiscal years, FY2016-2018).

**Table 11** shows the number of admissions to prison over three years and the expected annual bed-years of resources available due to SB1971. A bed-year represents the resources consumed by one person incarcerated for 365. A bed-year could also be five people incarcerated for 73 days each. Both require 1 bed-year’s worth of resources 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 people by 5,826 each year.

**Table 11.** 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	6,878	1.15	0.13	1.03	7,073	2,358
	Manufacture/Delivery or Trafficking	4,250	3.03	1.41	1.62	6,893	2,298
Methamphetamine Control and Community Protection	Possession of Methamphetamine	1,219	1.38	0.15	1.23	1,501	500
	Manufacture/Delivery or Trafficking	1,111	2.53	1.25	1.28	1,425	475
Cannabis Control	Possession of Cannabis	315	1.08	0.51	0.57	181	60
	Manufacture/Delivery or Trafficking	672	1.62	1.01	0.60	405	135
<b>TOTAL</b>		<b>14,445</b>				<b>17,478</b>	<b>5,826</b>

**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 people 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. SB1971's other reform of reducing MSR terms would have an additional impact but is not considered here.

- 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 SB1971. 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 SB1971.
- 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 32% would receive 2 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 \$2,011 per person 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:**

**\$359.2 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 2016 through 2018. 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 \$36.9 million over three years, due to shorter MSR terms.

## **IMPACTS OF PROPOSED LEGISLATION ON COUNTY JAILS:**

**\$37.8 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 people 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 people in prison 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:**

**\$25.6 million**

Additional costs over three years.

Probation costs significantly less than prison. For this analysis, SPAC used \$2,011 per person per year as the average cost of probation based on information provided by the Administrative Office of the Illinois Courts (AOIC) for fiscal year 2018. Statewide, costs are increased due to more people 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 68% 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 people after the change, SPAC did not include any specialty programming costs, such as drug courts or drug treatment.

## **IMPACTS OF PROPOSED LEGISLATION ON VICTIMS AND COMMUNITIES:**

**\$10.6 million**

Additional costs over three years.

Diverting people from prison and reducing length of stay through the proposed changes to penalties shortens the incapacitation of these people 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 people. SPAC calculates the incapacitation effect in two ways:

1. People 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 12** 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 people would have exited prison had the bill been in effect.<sup>7</sup> The SPAC Victimization Supplement fully explains this methodology:  
[http://www.icjia.state.il.us/spac/pdf/Victimization\\_Supplement\\_0415.pdf](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 people under 27, who have falling recidivism rates with increased age; those people between 28 and 36 with rising recidivism rates; and those people 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 people are incapacitated meaning crimes occur later or earlier due to the timing of the person’s release (*Incapacitation Benefits* in **Table 12**). Because a dollar not stolen today is worth more than a dollar stolen tomorrow, crime delays create benefits to crime victims. This effect is referred to as the social discount rate. SPAC applied a 3% discount rate to victimizations under the different incapacitation lengths to estimate the possible benefit of delayed crime.

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 12. 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	-\$2,870,383	-\$1,558,587	-\$4,428,970
	Manufacture/Delivery or Trafficking			-\$3,039,243	-\$1,532,819	-\$4,572,062
Methamphetamine Control and Community Protection	Possession of Methamphetamine			-\$543,868	-\$331,750	-\$875,618
	Manufacture/Delivery or Trafficking			-\$522,651	-\$315,177	-\$837,828
Cannabis Control	Possession of Cannabis			-\$81,129	-\$39,622	-\$120,751
	Manufacture/Delivery or Trafficking			\$365,018	-\$88,817	\$276,201
<b>TOTAL</b>		<b>\$7,342</b>	<b>\$35,901</b>	<b>-\$6,692,258</b>	<b>-\$3,866,771</b>	<b>-\$10,559,029</b>

<sup>7</sup> 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.

## DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

National research indicates that drug use occurs at nearly equivalent rates among different racial and ethnic groups.<sup>8</sup> Despite similar drug use patterns, the demographics of people arrested and prosecuted pursuant to the three drug control acts are 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.<sup>9</sup> The other category includes all admissions where the reported race of the person did not fall within another group.

**Table 13. Demographics of Arrest**

Cannabis Control Act						Controlled Substances Control Act						Methamphetamine Control Community Protection Act					
Arrest Year	Black	White	Hispanic	Other	Total Arrests	Arrest Year	Black	White	Hispanic	Other	Total Arrests	Arrest Year	Black	White	Hispanic	Other	Total Arrests
2016	50%	36%	13%	2%	30,208	2016	50%	39%	10%	1%	26,295	2016	4%	93%	1%	2%	2,859
2017	56%	31%	11%	2%	10,216	2017	49%	41%	9%	1%	23,374	2017	5%	92%	1%	1%	3,925
2018	60%	25%	13%	2%	10,107	2018	47%	41%	11%	1%	24,097	2018	6%	92%	1%	2%	5,143
Average	56%	31%	12%	2%		Average	48%	41%	10%	1%		Average	5%	93%	1%	2%	
<b>Grand Total</b>	<b>26,943</b>	<b>16,569</b>	<b>6,207</b>	812	50,531	<b>Grand Total</b>	<b>35,627</b>	<b>29,979</b>	<b>7,293</b>	867	73,766	<b>Grand Total</b>	<b>593</b>	<b>11,014</b>	136	184	11,927

**Table 14. Demographics of Convictions**

Cannabis Control Act						Controlled Substances Act						Methamphetamine Control Community Protection Act					
Conviction Year	Black	White	Hispanic	Other	Total Convictions	Conviction Year	Black	White	Hispanic	Other	Total Convictions	Conviction Year	Black	White	Hispanic	Other	Total Convictions
2016	48%	44%	7%	2%	3,746	2016	58%	35%	5%	1%	9,398	2016	4%	93%			1,228
2017	50%	40%	9%	2%	2,281	2017	59%	34%	7%	1%	8,977	2017	6%	91%			1,643
2018	53%	38%	8%	1%	1,698	2018	57%	34%	8%	1%	7,428	2018	9%	89%			1,829
Average	50%	40%	8%	2%		Average	58%	34%	7%	1%		Average	7%	91%			
<b>Grand Total</b>	<b>3,824</b>	<b>3,178</b>	<b>589</b>	134	7,725	<b>Grand Total</b>	<b>15,011</b>	<b>8,855</b>	<b>1,677</b>	260	25,803	<b>Grand Total</b>	<b>325</b>	<b>4,258</b>			4,700

**Table 15. Three Years Admissions to Prison by Race**

Act	Black	White	Hispanic	Other	Total
Cannabis Control	570	268	138	11	987
	58%	27%	14%	1%	100%
Controlled Substance	7,718	2,431	939	71	11,159
	69%	22%	8%	1%	100%
Methamphetamine Control Community Protection	138	2,134	61	14	2,347
	6%	91%	3%	1%	100%
<b>Total</b>	<b>8,426</b>	<b>4,833</b>	<b>1,138</b>	<b>96</b>	<b>14,493</b>
	<b>58%</b>	<b>33%</b>	<b>8%</b>	<b>1%</b>	<b>100%</b>

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

<sup>8</sup> SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2011 and 2012.

<sup>9</sup> 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 16.** Three Years Admissions to Prison by Gender

Act	Male	Female	Total
Cannabis Control	948	39	987
	96%	4%	100%
Controlled Substance	9,808	1,351	11,159
	88%	12%	100%
Methamphetamine Control Community Protection	1,811	536	2,347
	77%	23%	100%
<b>Grand Total</b>	<b>12,567</b>	<b>1,926</b>	<b>14,493</b>
	<b>87%</b>	<b>13%</b>	<b>100%</b>

**Table 17.** Three Years Admissions to Prison by Geography

Act	Cook	Collar	Urban	Rural	Total
Cannabis Control	439	126	183	239	987
	44%	13%	19%	24%	100%
Controlled Substance	6,566	1,484	1,685	1,424	11,159
	59%	13%	15%	13%	100%
Methamphetamine Control Community Protection	73	43	428	1,803	2,347
	3%	2%	18%	77%	100%
<b>Grand Total</b>	<b>7,078</b>	<b>1,653</b>	<b>2,296</b>	<b>3,466</b>	<b>14,493</b>
	<b>49%</b>	<b>11%</b>	<b>16%</b>	<b>24%</b>	<b>100%</b>

**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

REDUCTION OF STATUTORY TERM OF SUPERVISION FOR FELONIES

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

PROJECTED IDOC POPULATION IMPACT: N/A

## INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

Mandatory Supervised Release (MSR) is the statutorily required period of supervision following release from prison. The length of the supervision is set by statute based on felony class and offense. [SB1971](#) reduces the MSR period from 2 or 3 years to 18 months for most Class X, 1 and 2 felonies. Certain enumerated sex offenses and domestic violence offenses are excluded. Table 18 shows the current terms, proposed changes, and the number of people in each category who have been released from prison over three years.

**Table 18.** Proposed Changes to MSR Supervision

Felony Class	Current MSR Term	Proposed MSR Term	Three Years of IDOC Releases
Murder	3 years	<i>No change</i>	754
Domestic Violence	4 years	<i>No change</i>	1,657
Enumerated Sex Offenses	3 years to life	<i>No change</i>	1,818
Class X	3 years	<b>18 months</b>	4,200
Class 1 & 2	2 years	<b>18 months</b>	25,863
Class 3 & 4	1 year	<i>No change</i>	35,467
<b>MSR Changes (Classes X, 1, and 2)</b>	<b>2-3 years</b>	<b>18 months</b>	<b>30,063</b>
<b>Total</b>			<b>69,759</b>

For this analysis, SPAC analyzed 69,759 people released from prison during FY2013-15, although only 30,063 of the total were in Class X, Class 1, and Class 2 categories.<sup>10</sup> The purpose is to answer these three questions:

1. How many people are returned at any point during MSR;
2. How many people were returned before the shortened period; and
3. What type of return was the admission, *i.e.*, a new sentence or a technical violation.

The results are:

1. Twenty-eight percent, 19,322 people released, were returned at any point during their MSR
2. Twenty-three percent, 16,339 people, were returned before the new 18-month cutoff.
3. Overall, 40% of the 69,759 people were returned to prison at least once during a three-year follow-up period. Twenty-six percent of people released returned for a technical violation while 14% returned on a new sentence.

The table on the following page shows the cumulative returning-to-prison recidivism rates, calculated at (a) the proposed shortened MSR period, (b) the current MSR period, and (c) three years from release. New convictions and technical violations accounted for 98% of the recidivism events.

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<sup>10</sup> The analysis excludes people who had already been on MSR and were violated earlier to focus on those with full MSR terms remaining.

**Table 19. Cumulative Returning-to-Prison Recidivism Rates**

Felony Class	No Return	Cumulative Returning to Prison Recidivism					
		Within Shortened MSR Period*		Within Current MSR Period*		Any Return Within 3 Years	
		Technical Violation	New Sentence	Technical Violation	New Sentence	Technical Violation	New Sentence
Murder	82%	<i>n/a</i>	<i>n/a</i>	13%	5%	13%	5%
Domestic Violence	54%	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	42%	12%
Enumerated Sex Offenses	72%	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	23%	5%
Class X	69%	15%	3%	<b>25%</b>	<b>7%</b>	25%	7%
Class 1 & 2	60%	21%	7%	<b>25%</b>	<b>10%</b>	26%	14%
Class 3 & 4	63%	<i>n/a</i>	<i>n/a</i>	15%	6%	21%	16%
<b>Total</b>	<b>60%</b>	<b>23%</b>		<b>28%</b>		<b>26%</b>	<b>14%</b>
						<b>40%</b>	

\* For the MSR-period violations, only technical violations and new sentences are counted. This excludes about 2% of returns to prison, which are for additional mittimus, admitted from other custody, or other exceptional cases.

The impact of SB1971 is shown in the highlighted cells:

- (A) 1,600 technical violations occurred after the shortened MSR period but within the current MSR term, shown as the dark-blue cells in the Class X and Class 1 & 2 rows.
- (B) 910 new convictions and sentences after the shortened MSR period but within the current MSR term, shown as the light-blue cells. These cases may have arisen from the additional supervision that occurs while a person is on MSR.

The net effect on these 2,510 people is unknown. For example, the MSR technical violators may instead face prosecution for the event that led to their revocation, resulting in longer prison stays than are currently occurring as technical violation admissions. Those increases may be offset by fewer overall admissions, resulting from fewer arrests when there is no MSR supervision. The net 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.

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

# TRUTH-IN-SENTENCING REFORM

CHANGES TO GOOD-TIME SENTENCING CREDIT RESTRICTIONS

730 ILCS 5/3-6-3

PROJECTED IDOC POPULATION IMPACT: **-1,900 PEOPLE ANNUALLY**

**TOTAL PRESENT VALUE OF BENEFITS IN REDUCED FISCAL COSTS: between \$106.8 and \$180.0 million**

**TOTAL PRESENT VALUE OF VICTIMIZATION BENEFITS FOR PROPOSED CHANGES: -\$7.3 million**

**NET BENEFITS (BENEFITS MINUS COSTS): between \$99.4 and \$172.6 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 50 years.

[SB1971](#) amends the Unified Code of Corrections to reduce truth-in-sentencing (TIS) restrictions as follows:

- (1) Permits people 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, resulting in a length of stay of 72% rather than 85% of the sentence imposed;
- (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, resulting in a length of stay of 65% rather than 75% of the sentence imposed; and,
- (4) Removes the restriction on earning good-time sentence credits for drug offenses.

These changes would apply to new admissions and to those currently incarcerated for the affected 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. For example, reducing years off of a 40-year sentence creates benefits but not until close to 2059. To account for this long timeframe, SPAC applied both a 2% and a 5% social discount rate to find the net present value of cash flows that accrue in future years.<sup>11</sup> This methodology produced the high and low estimates in **Table 20**, depending on the rate used.

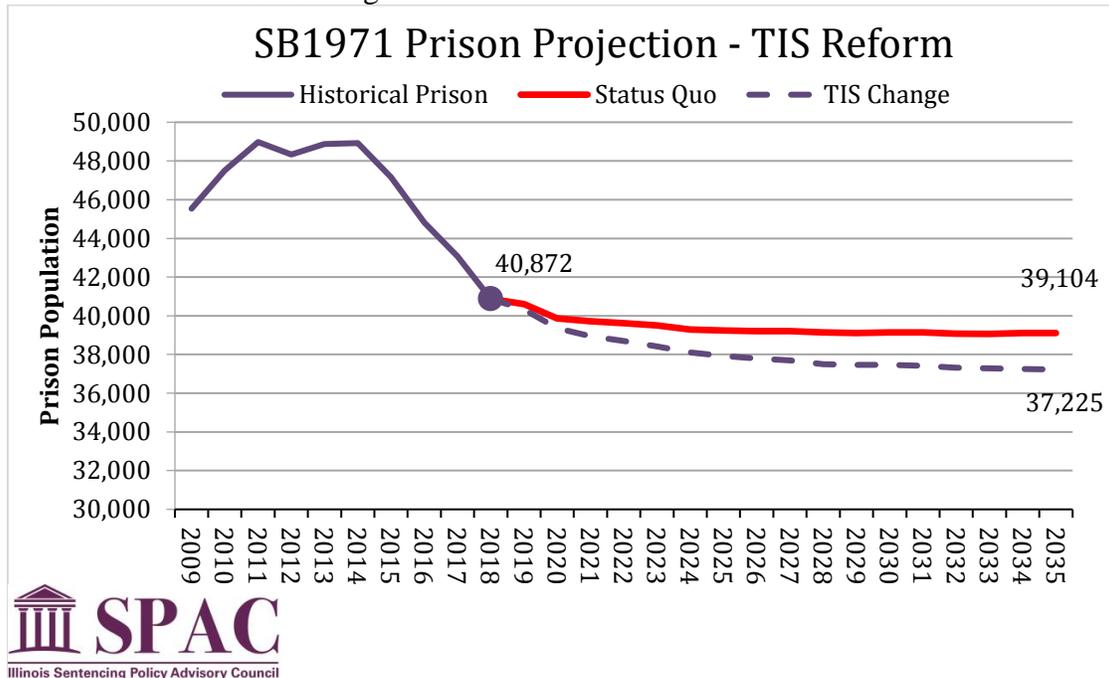
**Table 20. Truth-in-Sentencing Change in Costs**

Impact on State Costs and Public Safety		
<b>Reduced Bed-Years for IDOC</b>		31,501
<b>Benefits:</b>	High Estimate	\$179,975,055
<b>IDOC Costs Avoided</b>	Low Estimate	\$106,766,526
<b>Additional Victimization Costs</b>		<b>\$7,349,943</b>
<b>Net Benefits (Benefits minus Costs)</b>	<b>High Estimate</b>	<b>\$172,625,112</b>
	<b>Low Estimate</b>	<b>\$99,416,583</b>

<sup>11</sup> 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 – SB1971 TIS 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 FY2018. The only change between the status quo and the SB1971 projection is the amount of good-time credits awarded and which people 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 modeled scenario.

#### 1. Truth-in-sentencing:

- a. Current practices for revocations of good-time credit remain constant.
- b. SPAC assumes that the current prison population 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 both concurrent and consecutive sentences.
- d. SPAC assumes that time served for technical revocations for people 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, 2016 through 2018, 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 Record Information (CHRI, past three fiscal years available, FY2016-2018) and from the IDOC's Planning and Research Division (past three fiscal years, FY2016-2018).

**Table 21** shows the number of admissions over three years and the number of people in the current IDOC population on June 30, 2015, before this bill would take effect, for truth-in-sentencing offenses. These people 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 people, 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.

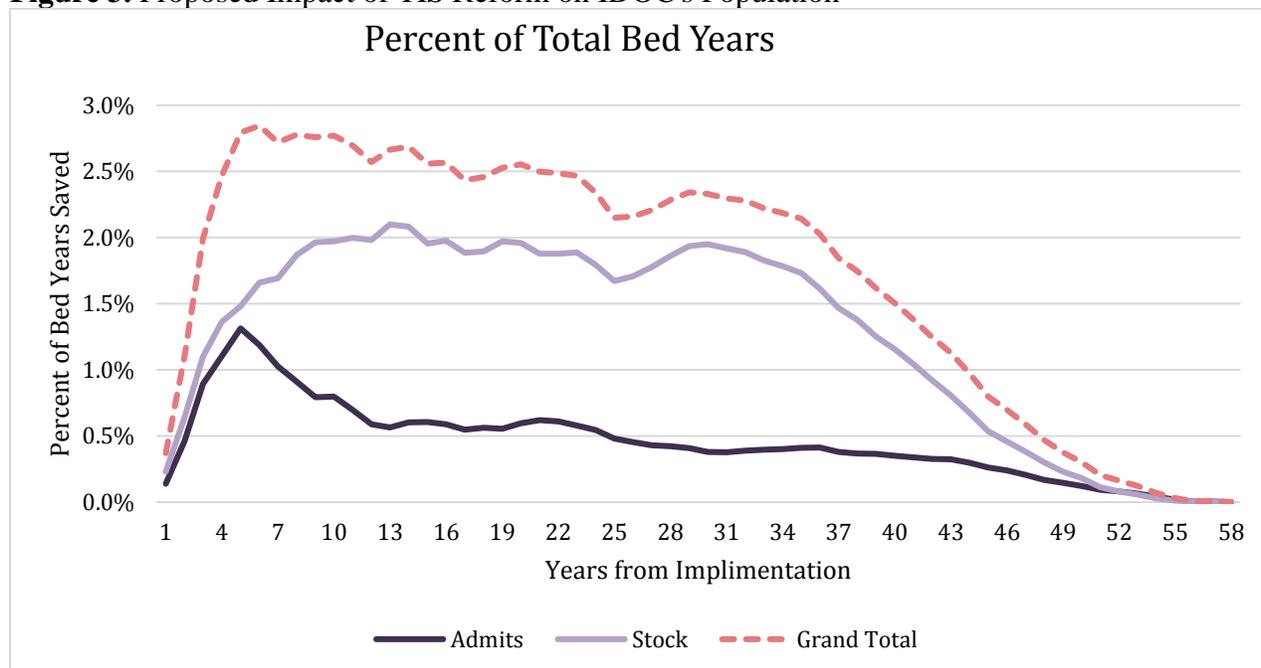
**Table 21.** Number of People Subject to Truth-in-Sentencing in IDOC

Most Serious Class	Truth-in-Sentencing Admissions from Court, FY16-2018			June 30, 2015 Population		
	100%	85%	75%	100%	85%	75%
Murder	529	2	--	3,514		
Class X	--	1,971	144	2	6,091	357
Class 1	--	584	8		1,030	8
Class 2	--	615	1		754	3
Class 3	--	2	--		9	
Class 4	--	95	--	1	63	
<b>Subtotal</b>	<b>529</b>	<b>3,269</b>	<b>153</b>	<b>3,517</b>	<b>7,947</b>	<b>368</b>
<b>TOTAL</b>	<b>3,951</b>			<b>11,832</b>		
<i>Percent of Total Admits and Prisoners</i>	<i>7.3%</i>			<i>28.9%</i>		

Allowing more sentence credit for the current population accelerates exits from IDOC for nearly 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.

The figure below shows the impact had the bill on both the admissions (“Admits” dark-purple line) and the population in prison (“Stock” light-purple line) over time, including the total impact (“Grand Total” dotted line). The largest percent of the bed-years saved occur in year 5 but a substantial portion occur over the next 50 years.

**Figure 3.** Proposed Impact of TIS Reform on IDOC's Population



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 22.** 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 Prison Population	\$578,000	\$11.5 million	\$124.4 million
Impact from Three Years of Admissions	\$351,000	\$9.3 million	\$46.4 million
<b>Total</b>	<b>\$929,000</b>	<b>\$20.8 million</b>	<b>\$170.9 million</b>

Reducing length of stay through the proposed sentence credits also shortens the incapacitation of these people 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 lengths of stay is \$7.3 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 a person’s 75<sup>th</sup> birthday. This cut-off accounts for (a) average age at admission, (b) life expectancy for people at that age, and (c) the impact of incarceration on people’ health. However, almost 200 people in prisons were older than 75 on June 30, 2018 (1% 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 people subject to truth-in-sentencing are not included. This analysis only includes admissions over the past three years. However, the population projection shown on page 25 includes future admissions and models the policy change compared to the status quo, finding an eventual reduction of over 1,800 people in prison each year.

**DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:**

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

**Table 23.** Past Three Years Admissions to IDOC for TIS Offenses by Race and Gender

	Male	Female	Total	Percent
Black	2,064	68	2,132	54%
White	919	86	1,005	25%
Hispanic	766	20	786	20%
Other	22	6	28	1%
<b>Total</b>	<b>95%</b>	<b>5%</b>	<b>3,951</b>	<b>100%</b>

**Table 24.** Top 10 Admitting Counties to IDOC for TIS Offenses over the Past Three Years

<b>County</b>	<b>Number of Admissions</b>	<b>Percent</b>
Cook	2,136	54%
Kane	133	3%
Winnebago	111	3%
St. Clair	109	3%
Madison	109	3%
Will	106	3%
Lake	99	3%
Peoria	88	2%
DuPage	78	2%
Champaign	68	2%
Other	914	23%
<b>Total</b>	<b>3,951</b>	<b>100%</b>

# PROHIBIT PRISON USE FOR FELONS WITH SHORT LENGTHS OF STAY

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 [SB1971](#) 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>12</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 25.** Costs and Benefits of Short-Term Reform over Three Years

SPAC Analysis of SB1971	
<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 25** 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>12</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>13</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>14</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 26.** 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 26.** Types of Offenses Affected by Short-Term Reform

2016-2018 Admissions, Subject to SB1971	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 SB1971. On average, the impact was about 21 fewer people in prison.

<sup>13</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>14</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>15</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, SB1971 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>16</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>17</sup> The option to send people to "another facility or program within the Department of Corrections" has an unknown cost.<sup>18</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>15</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>16</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>17</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>18</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 27.** 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 28** lists the victimization costs caused by people affected by SB1971 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 28. 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	\$1,629	\$1,631	-\$1.31	978	-\$1,277
<b>Total</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 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	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>	

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

**DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:**

Examining the geographic distribution of incoming people affected by SB1971’s short-term reforms shows that 89% of the people affected come from Cook, and another 7% come from Collar counties.

**Table 29.** 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 30**, the race and gender of people impacted by SB1971 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 30.** 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>

# HABITUAL CRIMINAL REFORM

REPEAT CLASS 1 AND 2 ENHANCEMENTS FOR FORCIBLE FELONIES  
730 ILCS 5/5-4.5-95

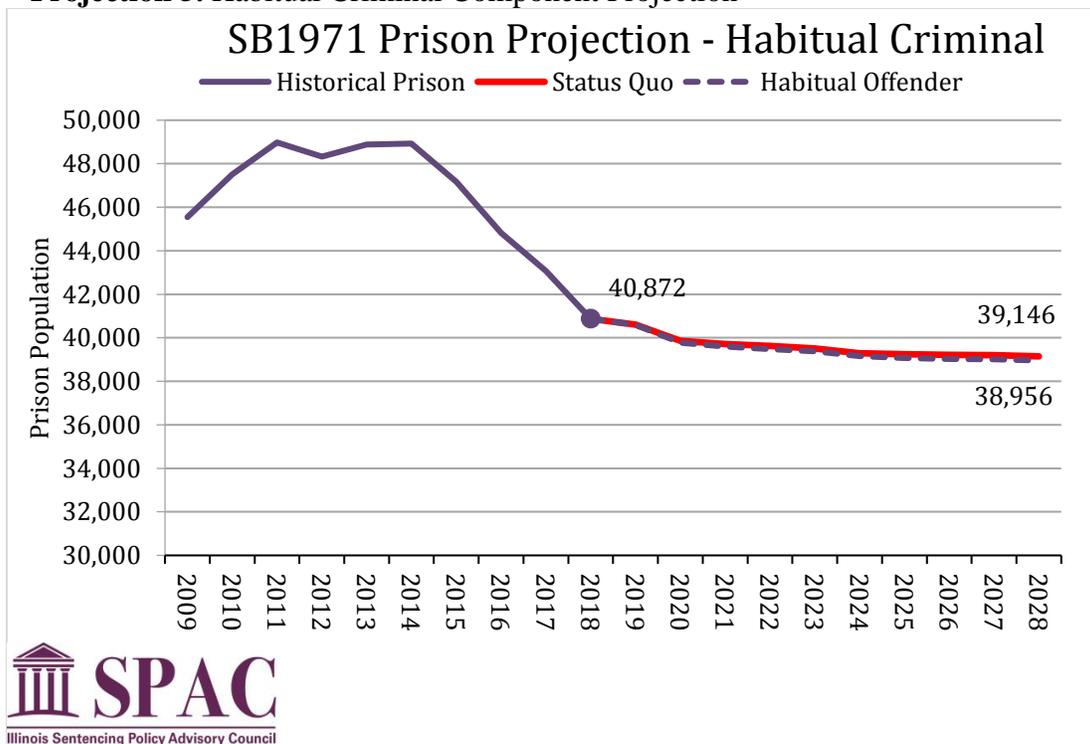
**PROJECTED IDOC POPULATION IMPACT: -190 PEOPLE ANNUALLY**

**INSUFFICIENT DATA TO SUPPORT FULL FISCAL IMPACT ANALYSIS**

For repeat Class 1 or Class 2 felons, [SB1971](#) limits habitual criminal enhancements only to be applied if the prior repeat offenses are *forcible* felonies, rather than any Class 1 or 2 felony.<sup>19</sup> The bill specifically prohibits counting of any drug offense as one of the prior convictions.

## SPAC PRISON POPULATION PROJECTION –SB1971 HABITUAL CRIMINAL

**Projection 5. Habitual Criminal Component Projection**



Over time, the SPAC projection estimates that IDOC would have 190 fewer people 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 person 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 1,874 people 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.

SPAC analysis of CHRI data indicates that the number of convictions eligible for the three-strike enhancement may decrease by about 70% each year with SB1971's new eligibility standards. Admissions with habitual criminal sentences have significantly decreased in recent years, at least partly because admissions overall have decreased. Currently, SPAC has not determined fully the causes of this decline.

Of the 1,874 people SPAC identified as potentially eligible for habitual criminal sentencing over the past three years:

- 70% self-identified as black and 22% self-identified as white.
- The average age at admission was almost 40 years old.
- 54% were admitted from Cook County and 4% were admitted from Winnebago County; the remaining counties each made up 3% or less of the admissions.
- Only 27% had both a forcible felony admission to prison and 2 prior forcible felony convictions.

## EXPAND PROBATION AND QUALIFIED PROBATION ELIGIBILITY

RESTORE PROBATION ELIGIBILITY AND EXPAND SPECIAL PROBATION PROGRAMS  
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

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

### INSUFFICIENT DATA TO SUPPORT FULL FISCAL IMPACT ANALYSIS

SB1971 expands eligibility of drug probation programs to permit people to participate more than once every four years, as limited by current law. The proposal also removes the mandatory minimum prison sentences for some drug crimes and residential burglary by making these crimes eligible for probation. SPAC was unable to estimate the impact of this portion of the bill because, while Illinois Criminal History Record Information (CHRI) data are generally reliable, some of the effected offenses already appear to receive probation. The reason for these sentences can partly be explained but there may be additional analysis necessary to fully understand how SB1971 would have impacted these cases had the bill been in effect for the past three years.

The table below shows that SPAC found 4,039 convictions over three years under the effected statutes. Approximately 66% of the residential burglary convictions and 22% of the controlled substance convictions clearly had prison sentences. The potential reason for the remaining sentences are discussed below the table.

**Table 31.** Sentences for People Convicted of Offenses included in SB1971

Cases with Convictions for Section 5-5-3 Nonprobationable Offenses	Residential Burglary		Controlled Substances Act	
	Number	Percent	Number	Percent
Prison Sentence	1,344	66%	446	22%
Probation Sentence	550	27%	271	15%
Only Jail or Credit Time Served Sentence	91	4%	1,214	61%
Convictions Without Sentence Records	49	3%	74	2%
<b>Total Probation, Other, or Unknown</b>	<b>690</b>	<b>34%</b>	<b>1,559</b>	<b>77%</b>
<b>Total Convictions</b>	<b>2,034</b>		<b>2,005</b>	

*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, a person convicted of one count of delivery of a controlled substance near a school (720 ILCS 570/407) and one count of possession with 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 people 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 people 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 people, 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 32. Nonprobationable Admissions to Prison by Offense**

Code of Corrections	Offense	Criminal Code Statutory Citation	Arrests <sup>a</sup>	Convictions <sup>a</sup>	Admissions to Prison <sup>a</sup>
730 ILCS 5/5-5-3		720 ILCS			
(c)(1)(D)	Controlled drug trafficking	570/401.1	211	<10	2
	Delivery near a protected area <sup>b</sup>	570/407	1,387	1,967	409
(c)(1)(D) 5+ grams	Man/ Del substance containing fentanyl	570/401(c)(1.5)	10	33	8
(c)(1)(D-5)	3+ grams of heroin <sup>b</sup>	570/401(c)(1)	1,699	1,323	568
(c)(1)(G)	Residential burglary <sup>d</sup>	5/19-3	6,207	2,034	1,414
<b>Total</b>			<b>9,514</b>	<b>5,357</b>	<b>2,401</b>

<sup>a</sup>The arrests and convictions are for fiscal years 2016-2018, whereas the prison admissions are for the same fiscal years, which run July 1, 2015 through June 30, 2018. 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 people in the arrest or conviction columns.

<sup>b</sup>The gap between the numbers of convictions and admissions to prison is likely caused by a combination of (1) people 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.

<sup>c</sup>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.

<sup>d</sup>The gap between the numbers of convictions and admissions to prison is likely caused by a combination of (1) people receiving TASC probation under 20 ILCS 301/40-10, (2) juvenile convictions receiving probation under 705 ILCS 405/5-715(1.5), (3) people convicted of attempted residential burglary, which is an offense that is eligible for probation, (4) people 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) people who 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 33 shows that those who go to prison are getting average sentences of five years or longer. If SB1971 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 33.** 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 <sup>1</sup>	Average Time Incarcerated
730 ILCS 5/5-5-3		720 ILCS					
(c)(1)(D)	Controlled drug trafficking	570/401.1	2	.82	6.3	2.5	3.3
	Delivery near a protected area	570/407	409	0.59	5.4	2.0	2.5
(c)(1)(D)	5+ grams of fentanyl	401(c)(1.5)	8	0.35	4.7	1.4	1.8
(c)(1)(D-5)	3+ grams of heroin	401(c)(1)	568	0.70	5.7	1.8	2.5
(c)(1)(G)	Residential burglary	5/19-3	1,414	0.67	6.3	2.3	2.9

<sup>1</sup> Average time served in IDOC is calculated from releases from prison during fiscal years 2016-2018. The releases are not the same people 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, 2035, the status quo projection estimates 39,146 people would be held in prison. The dotted lines answer the “what if” question regarding the components of SB1971 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, FY2018. The changes between the status quo and SB1971 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. SB1971 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*. The projection took the midpoint between the national average and the average value in Rockford, Illinois.
  - b. For people convicted of theft, SPAC reduced the number of admissions to account for 70% of those who received felony convictions instead receiving misdemeanor convictions because of HB1614. SPAC derived these percentages from analysis of NIBRS data from 2016, including information available from Rockford, Illinois, in the national dataset.
  - c. For people convicted of retail theft, SPAC reduced the number of admissions to account for 94% of those who received felony convictions instead receiving misdemeanor convictions because of SB1971. SPAC derived these percentages from analysis of NIBRS data from 2016, including information available from Rockford, Illinois, in the national dataset.
  - d. For all the above crimes, SPAC assumes no change in arrests, charges, convictions, or sentencing other than the above modifications.
2. Drug reform:

- a. The felony class for each offense is adjusted according to SB1971 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 SB1971, 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 SB1971.
3. Truth-in-sentencing:
- a. For the current prison 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 both concurrent and consecutive sentences.
  - c. SPAC assumes that the time served for technical revocations for people subject to TIS do not substantially change. In practice, technical violators subject to TIS would receive more good-time credit and potentially would 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. SPAC removes all admissions with four months or less of their sentence remaining after subtracting the credit for time served in county jail.
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 person 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 qualified probation, the Offender Initiative Program, and Second Chance Probation are not included in the modeled projections due to data limitation.

## SPAC FISCAL IMPACT ANALYSIS METHODOLOGY

SPAC looks retrospectively at the past three fiscal years, 2016 through 2018, 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 Record Information (CHRI, past three fiscal years available, 2016-2018) and from the IDOC's Planning and Research Division (past three fiscal years, FY2016-2018). **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 FY2016-18. 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.<sup>20</sup> A dynamic marginal cost (DMC) methodology approximates both State and local public safety budgeting, allowing 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 975 people, 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 \$2,011 per person per year is the average of these annual costs and then inflated to

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<sup>20</sup> Local costs are estimated from SPAC's survey of county budgets, available on SPAC's website: <http://ilspac.illinois.gov>.

2018 dollars. 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.

SPAC’s victimization 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.

## APPENDIX B. Limitations and Assumptions

- Additional parts of SB1971 are not discussed because the fiscal impacts could not be estimated. For example, this analysis excludes the sections on appointment process for special prosecutors in Cook County for officer-involved deaths.
- The fiscal impact calculations 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 previous year 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: people 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 67% would receive probation and 33% 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, \$2,011 per person 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 a 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 people only under their most serious offense. Some people may have second or third offenses that would affect their sentencing.
- SPAC does not include the local costs for detaining people 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.
- 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 people 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 a person's 75<sup>th</sup> birthday. This cut-off accounts for (a) average age at admission, (b) life expectancy for people at that age, and (c) the impact of incarceration on people's health. However, almost 200 people were older than 75 in prisons on June 30, 2018 (1% 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, the cumulative impact in year ten after implementation would be 1,800 fewer people in prison on any given day, per the projection.
- For the short-term reforms, 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 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 people would have been placed had the short-term reforms 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. 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 case management system, Offender 360, and past records where a person 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 people 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,<sup>21</sup> 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 prison medical care or overall staffing costs, is considered.

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<sup>21</sup> SPAC, Supplement: Dynamic Marginal Costs in Fiscal Impact Analyses, 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).

- SPAC’s 2016 analysis of seven county jails is used as an approximation of statewide jail costs.<sup>22</sup> If jail populations increased or decreased in each county jail proportionally, the 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 \$90 million in benefits to Illinois victims, economic growth, and government expenditures.<sup>23</sup>

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<sup>22</sup> 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](http://www.icjia.state.il.us/spac/pdf/Quantifying_County_Adult_Criminal_Justice_Costs_in_Illinois_120616.pdf).

<sup>23</sup> SPAC, Illinois Results First: The High Cost of Recidivism, 2018, available at: [http://www.icjia.state.il.us/spac/pdf/Illinois\\_Result\\_First-The\\_High\\_Cost\\_of\\_Recidivism\\_2018.pdf](http://www.icjia.state.il.us/spac/pdf/Illinois_Result_First-The_High_Cost_of_Recidivism_2018.pdf).

## APPENDIX C. Tables of SB1971's Changes to Sentencing

### STANDARD INCARCERATION TERMS FOR CRIMES IN ILLINOIS

**Table 34.** Average Terms

	Class	Jail or Prison Term	Probation Term	Mandatory Supervised Release Term <sup>1</sup>
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

<sup>1</sup> 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 35.** Theft Changes

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

**Table 36. Retail Theft Changes**

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

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## CANNABIS CONTROL ACT

**Table 37. Cannabis Possession**

		<b>Possession 720 ILCS 550/4</b>	
Cannabis Amounts		Current Law	Proposed
<b>Under 10 grams (a)</b>		<i>\$100-\$200 fine</i>	<i>\$125 civil fine</i>
<b>10-30 grams (b)</b>		<i>Class B</i>	
<b>30-100 grams (c)</b>	First offense	<i>Class A</i>	<i>Class A</i>
	Second offense	<i>Class 4</i>	
<b>100-500 grams (d)</b>	First offense	<i>Class 4</i>	
	Second offense	<i>Class 3</i>	
<b>500-2,000 grams (e)</b>		<i>Class 3</i>	<i>Class 4</i>
<b>2,000-5,000 grams (f)</b>		<i>Class 2</i>	<i>Class 3</i>
<b>Over 5,000 grams (g)</b>		<i>Class 1</i>	<i>Class 2</i>
<b>Drug Paraphernalia 720 ILCS 600 Connection to possession of cannabis</b>		<i>Class A</i>	<i>Cannabis paraphernalia removed.</i>

**Table 38. Cannabis Manufacture and Delivery**

Cannabis Amounts	Manufacture and Delivery 720 ILCS 550/5 <sup>a</sup>		Manufacture and Delivery within 1,000 feet 720 ILCS 550/5.2		Manufacture and Delivery to Person under 18 720 ILCS 550/7	
	Current Law	Proposed	Current Law	Proposed	Current Law	Proposed
<b>Under 2.5 grams (a)</b>	<i>Class B</i>	<i>Class B</i>	<i>Class A Location not a factor.</i>	<i>Location not a factor.</i>	<i>Class B (up to 1 year)</i>	<i>Age not a factor.</i>
<b>2.5-10 grams (b)</b>	<i>Class A</i>		<i>Class 4</i>		<i>Class A (up to 2 years)</i>	
<b>10-30 grams (c)</b>	<i>Class 4</i>	<i>Class A</i>	<i>Class 3 (over 15 grams) Class 4</i>	<i>Class 4 (up to 6 years)</i>		
<b>30-500 grams (d)</b>	<i>Class 3</i>	<i>Class 4</i>	<i>Class 2</i>	<i>Class 3 (up to 10 years)</i>		
<b>500-2,000 grams (e)</b>	<i>Class 2</i>	<i>Class 3</i>	<i>Class 1</i>	<i>Class 2 (up to 14 years)</i>		
<b>2,000-5,000 grams (f)</b>	<i>Class 1</i>	<i>Class 2</i>	<i>Location not a factor.</i>	<i>Class 1</i>	<i>Class 1 (up to 30 years)</i>	<i>Class 1 (up to 19 years)</i>
<b>Over 5,000 grams (g)</b>	<i>Class X</i>		<i>Class 1</i>		<i>Class X (up to 60 years)</i>	

<sup>a</sup> Manufacture and delivery would also be the penalties for cannabis trafficking under 720 ILCS 550/5.1 if the defendant can prove by preponderance that he or she received little or no compensation from the transportation or was not involved in the organization or planning of the trafficking; otherwise cannabis trafficking is a Class 1 felony.

**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 person travelled across state lines with more than 2,500 grams. The proposal applies the unenhanced penalties to cannabis manufacture and delivery penalties if the person 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 38**.

**Table 39. Cannabis Plants**

Cannabis Amounts	Cannabis Plants 720 ILCS 550/8	
	Current Law	Proposed
<b>Not more than 5 plants (a)</b>	<i>Class A</i>	<i>Class B</i>
<b>6 to 20 plants (b)</b>	<i>Class 4</i>	<i>Class A</i>
<b>21 to 50 plants (c)</b>	<i>Class 3</i>	<i>Class 4</i>
<b>51 to 200 plants(d)</b>	<i>Class 2</i>	<i>Class 3</i>
<b>More than 200 plants (e)</b>	<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 40.** Manufacture, Delivery, or Possession with Intent of a Controlled Substance

		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 amount below the specified amounts of any Controlled Substance	<b>(d) any other amount</b>	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	<b>(c)(1) 1-15 grams</b>	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*
	<b>(a)(1)(A) 15-100 grams</b>	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*
	<b>(a)(1)(B) 100-400 grams</b>	Class X (9-40 extended term)	Class 1*	" "	" "	Class X (15-60 extended term)	Class 1 (6-30 extended term)* <sup>b</sup>	Up to 80 years extended term	Class 1 (max: 19 years)*	Up to 80 years extended term	Class 1 (6-30 extended term)*
	<b>(a)(1)(C) 400-900 grams</b>	Class X (12-50 extended term)		" "	Class 1 (6-30 extended term) <sup>b</sup>	Class X (15-60 extended term)		Up to 100 years extended term		Up to 100 years extended term	
	<b>(a)(1)(D) 900 or more grams</b>	Class X (15-60 extended term)	Class 1 (6-30 extended term)*	" "	Class 1 (9-40 extended term) <sup>b</sup>	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.

<sup>b</sup> 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. SB1971 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	<b>(c)(1.5) 1-15 grams</b>	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*
	<b>(a)(1.5)(A) 15-100 grams</b>	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*
	<b>(a)(1.5)(B) 100-400 grams</b>	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)*
	<b>(a)(1.5)(C) 400-900 grams</b>	Class X (12-50 extended term)		“ “	Class 1 (6-30 extended term) <sup>b</sup>	Class X (15-60 extended term)		Up to 100 years extended term		Up to 100 years extended term	
	<b>(a)(1.5)(D) 900 or more grams</b>	Class X (15-60 extended term)	Class 1 (6-30 extended term)*	“ “	Class 1 (9-40 extended term) <sup>b</sup>	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	<b>(c)(2) 1-15 grams</b>	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*
	<b>(a)(2)(A) 15-100 grams</b>	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*
	<b>(a)(2)(B) 100-400 grams</b>	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)*
	<b>(a)(2)(C) 400-900 grams</b>	Class X (12-50 extended term)		“ “	Class 1 (6-30 extended term) <sup>b</sup>	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)
	<b>(a)(2)(D) 900 or more grams</b>	Class X (15-60 extended term)	Class 1 (6-30 extended term)*	" "	Class 1 (9-40 extended term) <sup>b</sup>	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	<b>(c)(3) 5-10 grams</b>	--	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*
	<b>(c)(3) 10-15 grams</b>	Class 1		" "	" "	Class X (10-30 extended term)		Up to 30 years extended term		Class X	
	<b>(a)(3)(A) 15-100 grams</b>	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*
	<b>(a)(3)(B) 100-400 grams</b>	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)*
	<b>(a)(3)(C) 400-900 grams</b>	Class X (12-50 extended term)		" "	Class 1 (6-30 extended term) <sup>b</sup>	Class X (15-60 extended term)		Up to 100 years extended term		Up to 100 years extended term	
	<b>(a)(3)(D) 900 or more grams</b>	Class X (15-60 extended term)	Class 1 (6-30 extended term)*	" "	Class 1 (9-40 extended term) <sup>b</sup>	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: <b>(c)(4.5) 10-50 grams</b>	--	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*
	<b>(c)(4) 50-200 grams</b>	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)
	<b>(a)(4) 200 or more grams</b>	Class X	Class 1*	“ “	Class 1 (6-30 extended term) <sup>b</sup>	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*
	<b>(c)(5) 50-200 grams</b>	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*
	<b>(a)(5) 200 or more grams</b>	Class X	Class 1*	“ “	Class 1 (6-30 extended term) <sup>b</sup>	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*
	<b>(c)(6) 50-200 grams</b>	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*
	<b>(a)(6) 200 or more grams</b>	Class X	Class 1*	“ “	Class 1 (6-30 extended term) <sup>b</sup>	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)	<b>(c)(7) 5-15 grams or 10-15 objects containing LSD</b>	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*
	<b>(a)(7)(A) 15-100 grams</b>	Class X	Class 2*	“ “	“ “	Class X	Class 1*	Up to 60 years	Class 2 (max: 19 years)*	Up to 60 years	Class 1*

		<b>Manufacture and Deliver</b> 720 ILCS 570/401		<b>Trafficking</b> 720 ILCS 570/401.1		<b>Streetgang Drug Conspiracy</b> 720 ILCS 570/405.2		<b>Persons under 18</b> 720 ILCS 570/407		<b>Delivery at/near School</b> 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)
	<b>or 15-200 objects containing LSD</b>					(15-60 extended term)		extended term	10 years)*	extended term	
	<b>(a)(7)(B) 100-400 grams or 200-600 objects containing LSD</b>	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)*
	<b>(a)(7)(C) 400-900 grams or 600-1,500 objects containing LSD</b>	Class X (12-50 extended term)		" "	Class 1 (6-30 extended term) <sup>b</sup>	Class X (15-60 extended term)		Up to 100 years extended term		Up to 100 years extended term	
	<b>(a)(7)(D) 900 or more grams or more than 1,500 objects containing LSD</b>	Class X (15-60 extended term)	Class 1 (6-30 extended term)*	" "	Class 1 (9-40 extended term) <sup>b</sup>	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	<b>(c)(7.5) 5-15 grams Or 10-15 objects containing controlled substance</b>	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*
	<b>(a)(7.5)(A) 15-100 grams or 15-200 objects containing controlled substance</b>	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*
	<b>(a)(7.5)(B) 100-400 grams or 200-600 objects w/ controlled substance</b>	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)
	<b>(a)(7.5)(C) 400-900 grams or 600-1,500 objects containing controlled substance</b>	Class X (12-50 extended term)	Class 1 (6-30 extended term)*	" "	Class 1 (6-30 extended term) <sup>b</sup>	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)*
	<b>(a)(7.5)(D) 900 or more grams or more than 1,500 objects containing controlled substance</b>	Class X (15-60 extended term)		" "	Class 1 (9-40 extended term) <sup>b</sup>	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	<b>(c)(8.5), (9.5), (10.1), or (10.5-1)<sup>a</sup> 5-10 grams</b>	--	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*
	<b>(c)(8), (9), (10), or (10.5) 10-30 grams</b>	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*
	<b>(a)(8), (9), (10), or (10.5) 30 grams or more</b>	Class X	Class 1*	" "	Class 1 (6-30 extended term) <sup>b</sup>	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	<b>(c)(10.6-1), (10.7-1), (10.8-1), or (10.9-1) 10-50 grams</b>	--	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*
	<b>(c)(10.6), (10.7), (10.8), or (10.9) 50-100 grams</b>	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*

		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)
	<b>(a)(10.6), (10.7), (10.8), or (10.9), 100 grams or more</b>	Class X	Class 1*	“ “	Class 1 (6-30 extended term) <sup>b</sup>	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	<b>(e) (new: (d)) less than 10 grams</b>	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
	<b>(e) (new: (c)(11.1)) 10-50 grams</b>	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
	<b>(c)(11) 50-200 grams</b>	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
	<b>(a)(11) 200 grams or more</b>	Class X	Class 1*	“ “	Class 1 (6-30 extended term) <sup>b</sup>	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	<b>(f-1) less than 10 grams</b>	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
	<b>(f) 10 grams or more</b>	Class 3	Class 3	“ “	Class 2 <sup>b</sup>			Up to 10 years extended term	Class 3 (max: 7 years)*	Class 3	Class 2
Any other Schedule IV substance not otherwise included	<b>(g-1) less than 10 grams</b>	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
	<b>(g) 10 grams or more</b>	Class 3	Class 3	“ “	Class 2 <sup>b</sup>			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	<b>(h-1) less than 10 grams</b>	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
	<b>(h) 10 grams or more</b>	Class 3	Class 3	“ “	Class 2 <sup>b</sup>			Up to 10 years extended term	Class 3 (max: 7 years)*	Class 3	Class 2
720 ILCS 570/404 Look-Alike Substance	<b>(b) any look-alike substance</b>	Class 3	Class 4					Up to 10 years extended term	Class 4 (max: 4 years)	Class 3	Class 3

<sup>a</sup> 720 ILCS 570/401(c)(10.1) and (10.5-1) are amended to cover the amounts of 1 to 10 grams.

<sup>b</sup> 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 person 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 40**.

**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 person 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 41.** Possession of a Controlled Substance

		<b>Possession 720 ILCS 570/402</b>		
Drug Amounts Specifically Described: 720 ILCS 570/402		Current Law	Proposed	
Any other amount	<b>(c) any amount of controlled substance under the weights specified below</b>	Class 4	Class A	
Heroin	<b>(a)(1)(A) 15-100 grams</b>	Class 1	Class 3	
	<b>(a)(1)(B) 100-400 grams</b>	Class 1 (6-30 extended term)	Class 2	
	<b>(a)(1)(C) 400-900 grams</b>	Class 1 (8-40 extended term)	Class 1	
	<b>(a)(1)(D) 900 or more grams</b>	Class 1 (10-50 extended term)		
Fentanyl	<b>NEW: (a)(1.5)(A) 15-100 grams</b>	--	Class 3	
	<b>NEW: (a)(1.5)(B) 100-400 grams</b>	--	Class 2	
	<b>NEW: (a)(1.5)(C) 400-900 grams</b>	--	Class 1	
Cocaine	<b>(a)(2)(A) 15-100 grams</b>	Class 1	Class 3	
	<b>(a)(2)(B) 100-400 grams</b>	Class 1 (6-30 extended term)	Class 2	
	<b>(a)(2)(C) 400-900 grams</b>	Class 1 (8-40 extended term)	Class 1	
	<b>(a)(2)(D) 900 or more grams</b>	Class 1 (10-50 extended term)		
Morphine	<b>(a)(3)(A) 15-100 grams</b>	Class 1	Class 3	
	<b>(a)(3)(B) 100-400 grams</b>	Class 1 (6-30 extended term)	Class 2	
	<b>(a)(3)(C) 400-900 grams</b>	Class 1 (6-40 extended term)	Class 1	
	<b>(a)(3)(D) 900 or more grams</b>	Class 1 (10-50 extended term)		
Peyote	<b>(a)(4)</b>	New: (a)(4.5) 15-200 grams	--	Class 4
		<b>200 or more grams</b>	Class 1	Class 2
Barbituric acid	<b>(a)(5)</b>	New: (a)(5.5) 15-200 grams	--	Class 4
		<b>200 or more grams</b>	Class 1	Class 2

			<b>Possession 720 ILCS 570/402</b>	
Drug Amounts Specifically Described: 720 ILCS 570/402			Current Law	Proposed
Amphetamine or any optical isomer salt thereof	<b>(a)(6)</b>	New: (a)(6.1) 15-200 grams	--	Class 4
		<b>200 or more grams</b>	Class 1	Class 2
Lysergic acid diethylamide (LSD)	<b>(a)(7)(A) 15-100 grams or 15-200 objects containing LSD</b>		Class 1	Class 3
	<b>(a)(7)(B) 100-400 grams or 200-600 objects containing LSD</b>		Class 1 (6-30 extended term)	Class 2
	<b>(a)(7)(C) 400-900 grams or 600-1,500 objects containing LSD</b>		Class 1 (8-40 extended term)	Class 1
	<b>(a)(7)(D) 900 or more grams or more than 1,500 objects containing LSD</b>		Class 1 (10-50 extended term)	
Other Drugs	<b>(a)(7.5)(A) 15-100 grams or 15-200 objects containing controlled substance</b>		Class 1	Class 3
	<b>(a)(7.5)(B) 100-400 grams or 200-600 objects containing controlled substance</b>		Class 1 (6-30 extended term)	Class 2
	<b>(a)(7.5)(C) 400-900 grams or 600-1,500 objects containing controlled substance</b>		Class 1 (8-40 extended term)	Class 1
	<b>(a)(7.5)(D) 900 or more grams or more than 1,500 objects containing controlled substance</b>		Class 1 (10-50 extended term)	
Pentazocine, methaqualone, phencyclidine (PCP), ketamine, or any salts or isomers thereof	<b>(a)(8), (9), (10), or (10.5)</b>	New: (a)(8.5), (9.5), (10.1), or (10.6) 15-30 grams	--	Class 3
		<b>30 grams or more</b>	Class 1	Class 2
Any other Schedule I or Schedule II substance not otherwise included	<b>(a)(11)</b>	New: (a)(12) 15-200 grams	--	Class 3
		<b>200 grams or more</b>	Class 1	Class 2
Anabolic Steroid	<b>(d) any anabolic steroid</b>	First offense	Class C	Class C
		Second offense	Class B	Class B
<b>Possession of a Look-Alike Substance 720 ILCS 570/404</b>				
<b>720 ILCS 570/404</b> Look-Alike Substance	<b>(c) any look-alike substance</b>	First offense	Petty offense	Removed
		Second offense	Class C	

**720 ILCS 570/404, Possession of a Look-Alike Substance – see Table 41.**

**720 ILCS 570/405.2, Streetgang Drug Conspiracy – see Table 40.**

**New: 720 ILCS 570/407, *Delivery of Controlled Substance to People under 18*** – see **Table 40**. SB1971 amends the code so any person over 18 who faces manufacture and delivery penalties for delivery to a person 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.
- SB1971 also removes additional enhancements for possession with intent on or within 500 feet of a truck stop or safety rest area, religious house of worship, or senior housing.

**New: 720 ILCS 570/407.1, *Delivery of Controlled Substance Employing People under 18*** – any person 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 42.** 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 <sup>a</sup> (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) <sup>b</sup>	(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) <sup>c</sup>	(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 <sup>c</sup>	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>(b) possession of any other manufacturing material</b>	Class 2	Class 3
Protection of Meth Manufacturing (Section 40)	<b>(b) any lookout or security for manufacturing</b>	Class 2	Class 3
Waste of Methamphetamine Materials (Section 45)	<b>(b) any disposal of other manufacturing material</b>	Class 2	Class 3
Methamphetamine-related Child Endangerment (Section 50)	<b>(a)(2) knowingly endangers child</b>	Class 2	Class 2
	<b>(b)(2) child experiences death, great bodily harm, disability, or disfigurement</b>	Class X	Class 1*

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

<sup>a</sup> 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.

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

<sup>c</sup> 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 43.** Delivery or Sale of Methamphetamines

		Delivery 720 ILCS 646/55(a)		Aggravated Delivery 720 ILCS 646/55(b) <sup>a</sup>		Aggravated Delivery at a School 720 ILCS 646/55(b) <sup>b</sup>		Trafficking 720 ILCS 646/56 <sup>c</sup>	
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 (max: 7 years)*		Class 2*		
(a)(2)(B) 5-15 grams		Class 1	Class 3	Class X	Class 3 (max: 7 years)*	Class X	Class 2*	Class 1 (8-30 extended term)	--*
(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) <sup>a</sup>		Aggravated Delivery at a School 720 ILCS 646/55(b) <sup>b</sup>		Trafficking 720 ILCS 646/56 <sup>c</sup>	
	Current Law	Proposed	Current Law	Proposed	Current Law	Proposed	Current Law	Proposed
<b>(a)(2)(E) 400-900 grams</b>	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)*
<b>(a)(2)(F) 900 or more grams</b>	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.

<sup>a</sup> 720 ILCS 646/55(b), aggravated delivery of methamphetamine, which is delivery of meth (a) to a person 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.

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

<sup>c</sup> 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 43.**

### POSSESSION OF METHAMPHETAMINE

**Table 44.** 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.
- Requires that enhancements under subsection (b) apply only when the prior felonies are forcible.

**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 hearing. However, this revision does not extend to mandatory incarceration for Illinois Vehicle Code violations based on cannabis or drug impairment.

**Table 45. 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)	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 46.** Drug Offense Reform Calculation Example

Description of Crime				Current Cost Analysis				Cost Analysis	
Statute	Offense	Current Class	New Class	Total Admissions FY16-18	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	6,464	0.5 years	0.59 years	0.88 years	0.18 years	2 years

In the above example, the possession of controlled substance offenders will be divided between 2 months in jail or two years of probation. Multiplying the number of people 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 SB1971, 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 people (N/2) are instead receiving two-year probation sentences.

By adding the current costs and proposed costs for each felony offense, SPAC can estimate the expected impact for SB1971. The full results are shown below in **Table 47**.

**Table 47.** 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	\$26,810,957	-\$18,074,372	\$8,736,585	\$100,825,793	\$21,715,662	\$122,541,454	-\$4,428,970	\$126,849,069
	Manufacture/Delivery or Trafficking	\$6,080,752	-\$2,761,132	\$3,319,620	\$137,461,961	\$7,792,670	\$145,254,631	-\$4,572,062	\$144,002,188
Methamphetamine Control and Community Protection	Possession of Methamphetamine	\$2,479,847	-\$3,136,993	-\$657,146	\$29,247,569	\$3,985,223	\$33,232,792	-\$875,618	\$31,700,029
	Manufacture/Delivery or Trafficking	\$1,119,038	-\$408,130	\$710,908	\$29,979,257	\$1,727,392	\$31,706,650	-\$837,828	\$31,579,730
Cannabis Control	Possession of Cannabis	\$633,655	-\$421,080	\$212,575	\$2,927,939	\$779,303	\$3,707,243	-\$120,751	\$3,799,066
	Manufacture/Delivery or Trafficking	\$738,826	-\$798,301	-\$59,475	\$9,578,803	\$940,045	\$10,518,848	\$276,201	\$10,735,574
<b>TOTAL</b>		<b>\$37,863,075</b>	<b>-\$25,600,008</b>	<b>\$12,263,066</b>	<b>\$310,021,323</b>	<b>\$36,940,295</b>	<b>\$346,961,618</b>	<b>-\$10,559,029</b>	<b>\$348,665,655</b>

\* 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 47** as negative victimization benefits. The calculations supporting this estimate are below.

**Table 48. 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	27.7%	1,905	-2.1%	-1.03	2.2%	1.65	-\$35,901	-\$2,437,165
	28 to 36	28.3%	1,946	0.3%	-1.03	-0.3%	1.65	-\$35,901	\$355,708
	37 to 50	26.9%	1,850	-0.7%	-1.03	0.7%	1.65	-\$35,901	-\$788,926
	<b>Total</b>	<b>100%</b>	<b>6,878</b>						<b>-\$2,870,383</b>

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	$NPV \times N$
	1.15	0.13	-1.03	-\$7,342	-\$7,569	-\$227	6,878	-\$1,558,587
							<b>Total</b>	<b>-\$1,558,587</b>

<b>Total Victimization Benefits</b>	<b>-\$4,428,970</b>
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**Table 49. 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	32.3%	1,334	-2.1%	-1.65	3.5%	1.65	-\$35,901	-\$2,745,363.27
	28 to 36	31.8%	1,314	0.3%	-1.65	-0.5%	1.65	-\$35,901	\$386,123.63
	37 to 50	23.3%	963	-0.7%	-1.65	1.2%	1.65	-\$35,901	-\$660,133.79
	<b>Total</b>	<b>100%</b>	<b>4,131</b>						<b>-\$3,019,373</b>

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	$NPV \times N$
	3.04	1.39	-1.65	-\$7,342	-\$7,710	-\$368	4,131	-\$1,519,727
							<b>Total</b>	<b>-\$1,519,727</b>

<b>Total Victimization Benefits</b>	<b>-\$4,539,100</b>
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**Table 50. 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	24.0%	293	-2.1%	-1.23	2.6%	1.65	-\$35,901	-\$448,111.23
	28 to 36	36.9%	450	0.3%	-1.23	-0.4%	1.65	-\$35,901	\$98,424.43
	37 to 50	31.2%	380	-0.7%	-1.23	0.9%	1.65	-\$35,901	-\$194,181.53
	<b>Total</b>	<b>100%</b>	<b>1,219</b>						<b>-\$543,868</b>

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	$NPV \times N$
	1.38	0.15	-1.23	-\$7,342	-\$7,614	-\$272	1,219	-\$331,750
							<b>Total</b>	<b>-\$331,750</b>

<b>Total Victimization Benefits</b>	<b>-\$875,618</b>
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**Table 51. 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	24.7%	172	-2.1%	-1.31	2.8%	1.65	-\$35,901	-\$280,443.77
	28 to 36	37.0%	257	0.3%	-1.31	-0.4%	1.65	-\$35,901	\$60,013.99
	37 to 50	29.8%	207	-0.7%	-1.31	0.9%	1.65	-\$35,901	-\$112,783.06
	<b>Total</b>	<b>100%</b>	<b>695</b>						<b>-\$333,213</b>

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	$NPV \times N$
	2.64	1.33	-1.31	-\$7,342	-\$7,633	-\$291	695	-\$201,983
							<b>Total</b>	<b>-\$201,983</b>

<b>Total Victimization Benefits</b>	<b>-\$535,196</b>
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**Table 52. 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 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	24.7%	95	-2.1%	-1.23	2.6%	1.65	-\$35,901	-\$145,096.96
28 to 36	38.0%	146	0.3%	-1.23	-0.4%	1.65	-\$35,901	\$31,889.44	
37 to 50	28.1%	108	-0.7%	-1.23	0.9%	1.65	-\$35,901	-\$55,023.27	
<b>Total</b>	<b>100%</b>	<b>384</b>						<b>-\$168,231</b>	

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	$NPV \times N$
	2.31	1.08	-1.23	-\$7,342	-\$7,614	-\$272	384	-\$104,373
<b>Total</b>							<b>-\$104,373</b>	

<b>Total Victimization Benefits</b>	<b>-\$272,604</b>
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**Table 53. 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	$N \times P = N'$	K	$L' - L = D$	$K \times D = E$	(Convictions : Recidivism) = Z	V3	$N' \times E \times Z \times V3$
	18 to 27	34.3%	108	-2.1%	-0.57	1.2%	1.65	-\$35,901	-\$77,237.00
28 to 36	39.7%	125	0.3%	-0.57	-0.2%	1.65	-\$35,901	\$12,770.97	
37 to 50	22.2%	70	-0.7%	-0.57	0.4%	1.65	-\$35,901	-\$16,663.38	
<b>Total</b>	<b>100%</b>	<b>315</b>						<b>-\$81,129</b>	

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	$NPV \times N$
	1.08	0.51	-0.57	-\$7,342	-\$7,468	-\$126	315	-\$39,622
<b>Total</b>							<b>-\$39,622</b>	

<b>Total Victimization Benefits</b>	<b>-\$120,751</b>
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**Table 54. 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	$N \times P = N'$	K	$L' - L = D$	$K \times D = E$	(Convictions : Recidivism) = Z	V3	$N' \times E \times Z \times V3$
	18 to 27	42.9%	281	-2.1%	1.01	-2.1%	1.65	-\$35,901	\$352,194.03
	28 to 36	32.4%	212	0.3%	1.01	0.3%	1.65	-\$35,901	-\$37,998.96
	37 to 50	18.3%	120	-0.7%	1.01	-0.7%	1.65	-\$35,901	\$50,078.87
<b>Total</b>	<b>100%</b>	<b>655</b>						<b>\$364,274</b>	

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	$NPV \times N$
	1.63	1.01	-0.62	-\$7,342	-\$7,478	-\$136	655	-\$89,127
							<b>Total</b>	<b>-\$89,127</b>

<b>Total Victimization Benefits</b>	<b>\$275,147</b>
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**Table 55. Truth-in-Sentencing Increased Recidivism Victimization**

Recidivism Benefits	Age Group	Percent of Offenders in Each Age Group	Number Offenders	Recidivism Rate Change per Year	Average Difference in Years	Predicted Recidivism Rate Change	Ratio of Convictions to Recidivists	Three Year Victimization Costs per Offender	Victimization Benefits
		P	$N \times P = N'$	K	$L' - L = T$	$K \times T = E$	(Victims:Conviction) = Z	V3	$N' \times E \times Z \times V3$
	18 to 27	40.9%	6,455	-2.1%	-1.58	3.3%	1.68	-\$19,140	-\$6,887,264
	28 to 36	29.3%	4,624	0.3%	-1.58	-0.5%	1.68	-\$19,140	\$704,844
	37 to 50	20.8%	3,283	-0.7%	-1.58	1.1%	1.68	-\$19,140	-\$1,167,523
<b>Total</b>	<b>91%</b>	<b>15,783</b>					<b>Total</b>	<b>-\$7,349,943</b>	

**Table 56. Costs Due to Increased Victimization**

Incapacitation Benefits	Length of Stay (Years)	Length of Stay Proposed (Years)	Difference in Years	Price of One Year Victimization per Offender	Net Present Value of Victimization Price under Proposal (3% discount rate)	Net Present Value of Delayed Release	Number of Offenders	Victimization Benefits
	L	L'	$L' - L = T$	V1	$V1 / [(1+0.03)^T] = V1'$	$NPV = V1' - V1$	N	$NPV \times N$
	Truth in Sentencing			-1.58	\$6,402	\$6,708	-\$306	15,783
							<b>Total</b>	<b>-\$4,831,209</b>

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