

## HOUSE BILL 5666

REVISING SENTENCING FOR NON-VIOLENT OFFENDERS WITH LESS THAN FOUR MONTHS STAY  
730 ILCS 5 SECTIONS 5-4-1 AND 5-8-6

**TOTAL BENEFITS IN REDUCED COSTS OVER THREE YEARS: -\$2.2 million**  
**TOTAL VICTIMIZATION BENEFITS OVER THREE YEARS: -\$200,427**

**NET BENEFITS RANGE (BENEFITS MINUS COSTS): -\$2.4 million**  
*A negative number indicates that costs are greater than benefits.*

**Table 1.** Summary of Costs and Benefits over Three Years from HB 5666

SPAC Analysis of HB 5666	
<b>Benefits from IDOC Housing Costs Avoided:</b> Not housing offenders in state prisons	\$5,464,162
<b>Additional Costs for IDOC:</b> Taxpayer costs for placement in alternative programs	\$7,686,554
<b>Victimization Costs:</b> Costs of recidivism events in less supervised settings	\$200,427
<b>Net Benefit:</b> <i>Benefits minus costs - negative net benefits are costs</i>	<b><span style="color: red;">-\$2,422,818</span></b>

**POLICY QUESTION:** Will this policy change generate enough benefits from reduced time in prison to offset the costs of alternative supervision methods for the offenders affected by this proposal?

House Bill 5666 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. Instead, these offenders may be assigned to electronic home detention, an adult transition center (ATC), or another facility or program within the Illinois Department of Corrections (IDOC). Table 1 shows the net effects of housing these offenders equally in the three alternative forms of custodial supervision. There are avoided costs of not housing these offenders in IDOC for the few months remaining on their stay, but IDOC will incur additional costs of placing these offenders on alternative forms of supervision. There may be additional costs involved in scaling up capacity of these alternatives to fit this population, but this cost is unknown and is not included in this analysis. There is also a possibility of victimizations occurring as these offenders are in the community rather than prison.

Under current laws and policies, IDOC would still process and receive each individual sentenced to their custody, which would result in no changes to intake costs.<sup>1</sup> Depending on policies chosen, the additional costs of housing individuals on electronic detention, in ATCs, or other programs could also vary. Some offenders' homes may not be eligible for electronic home detention. Adult transition centers also may not have sufficient bed space for increasing the number of individuals housed for short stays. The third

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

alternative, “other facility or program within IDOC,” depends on IDOC’s available options that fit the definition.

Table 2 below shows that 7,419 individuals were admitted to IDOC with fewer than four months to serve on eligible Class 3 or Class 4 non-violent felonies during the past three fiscal years. Because of these short stays, only about 284 offenders are in IDOC on any given day that would be eligible for one of the alternatives.<sup>2</sup>

**Table 2. The Types of Offenses Affected by HB5666**

<b>2013-15 Admissions, Subject to HB 5666</b>	<b>Frequency</b>	<b>Percent</b>
Possession Controlled Substance	2,596	35.0
Theft	1,282	17.3
UUW	842	11.3
DUI	631	8.5
Driving Revoked License	580	7.8
Manufacture/Deliver Cannabis	244	3.3
Possession Cannabis	221	3.0
Property Damage	135	1.8
Fleeing	120	1.6
Identity Theft	80	1.1
Obstructing Justice	70	0.9
Sex Offender Registration-related	62	0.8
UUW-Felon	61	0.8
Criminal Trespass	54	0.7
Fraud	53	0.7
Burglary	52	0.7
Escape	51	0.7
Manufacture/Deliver Controlled Substance	50	0.7
Forgery	44	0.6
Burglary Tools	33	0.4
False Report	15	0.2
Eavesdropping	14	0.2
Deface Firearm	11	0.1
Other	118	1.6
<b>Total</b>	<b>7,419</b>	<b>100.0</b>

**METHODOLOGY:** SPAC used the most recent data from 2013, 2014, and 2015 for Illinois Department of Corrections (IDOC) admissions to identify the number of individuals affected by this proposal in those years. There were 90,000 admissions to IDOC during those three years. To identify the portion of admissions that would be relevant to HB5666 SPAC determined the time left to be served upon admission. First, SPAC applied the appropriate good-time credit (*i.e.*, day-for-day good-time credit for

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

most inmates) to the court imposed sentence and subtracted the time already served in county jails pre-trial. Second, SPAC compared the expected remaining time to serve to the projected release date used by IDOC. Only if both estimates of remaining time were less than four months were they included and analyzed in this fiscal impact statement.

Because the number of admissions to prison that could be affected by this bill was conservatively estimated, SPAC also reviewed exits from prison. During fiscal years 2013-15, about 8,500 individuals were released from prison with less than 4 months spent in state custody. These exits were for similar crimes as admissions. The number of exits is larger than the number of admissions as some sentence credit awards are contingent upon good behavior from the inmate, which cannot be assessed upon admission to IDOC.

- ***Costs Avoided***

To calculate state spending on these offenses for 2013 through 2015, 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, and (C) the marginal cost of intake and housing per inmate per year. SPAC used the marginal cost figure of \$6,405 per inmate, which represents the cost of adding one additional inmate for a year, because the average daily population (ADP) impact is less than 800 inmates, the equivalent of a housing unit. While this measure redirects over 7,000 offenders from IDOC over three years, the average daily prison population would drop by less than 300 offenders. Because this measure reduces time spent in prison but has an impact below 800 inmates, the state prison marginal costs over these three years would have been avoided had this measure been in effect. If the population impact exceeds 800 inmates, SPAC will use the per capita cost of \$41,052, which includes costs for criminal justice employees' health and pension benefits that are carried in the Central Management Services (CMS) budget.

Under 730 ILCS 5/3-2-2(b), IDOC is tasked with maintaining "reception and evaluation units for purposes of analyzing the custody and rehabilitation needs of persons committed to it and to assign such persons to institutions and programs under its control or transfer them to other appropriate agencies." These centers perform basic assessments of inmates' health, substance abuse issues, and education needs. Some of these assessments are required by law, others are necessary for IDOC to appropriately supervise the individual during the mandatory supervised release portion of the sentence. The average cost for a standard intake is \$2,000 and takes between two and three weeks. Therefore, the only avoided cost created by this bill is the annual cost of housing these offenders in IDOC for their short sentences.

In addition to the intake processing costs, the 7,419 inmates stay in prison on average for about 60 days. These days in prison require food, medicine, and other variable costs that vary with the number of inmates in custody. Using the marginal cost of prison in FY2015 (\$6,405; costs that vary by inmate), SPAC estimates \$5.5 million in avoided costs.

- ***Additional Costs***

Instead of prison, HB 5666 requires that inmates be placed in electronic home detention, an adult transition center, or another program. Electronic home detention has a significantly lower cost than prison (average of \$4.66 per day).<sup>3</sup> Electronic home detention also requires staff time of IDOC's parole division. This cost would not be a marginal cost (vary by inmate). Because the average number of inmates transferred to electronic home detention would be small on any given day, SPAC did not include the additional staff time costs. Adult transition centers, however, have a high average cost per person (\$52 per

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<sup>3</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.

day).<sup>4</sup> The option to send offenders to “another facility or program within the Department of Corrections” has an unknown cost.<sup>5</sup>

If each option is equally used, IDOC would face \$7.7 million in additional costs for supervising these offenders. This estimate assumes a third of affected inmates are supervised by electronic home detention, a third in ATCs, and the remaining third to another facility. SPAC conservatively estimates equal usage of alternatives as there is no way to reliably estimate the proportion of alternatives used. The calculations also assume that the offenders would spend the same amount of time supervised by these services, or about two months. If the sentences increased in order to give offenders a longer period of time under these supervised conditions, the costs could be higher.

If all affected inmates were sent to electronic detention, the lowest cost alternative, then this proposal would have \$1.5 million in additional costs, and the overall impact of this bill would be \$4 million in net benefits to IDOC. This outcome represents the maximum possible benefit of this proposal, although it is an unlikely possibility. Not all offenders would qualify for electronic detention. Additionally, the capacity for electronic detention would need to be expanded, the cost of which is currently unknown.

**Table 3. HB 5666’s 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
7,419	42	0.11	\$6,405	\$2,000

  

Bed-Year Impact over Three Years:	Annual Intake Costs Avoided for IDOC:	Annual Housing Costs Avoided for IDOC:	Total Costs Avoided for IDOC
853	\$0	\$5,464,162	\$5,464,162

  

Type of Program	Number Added	Average Stay (days)	Marginal Cost per Day	Additional Costs for IDOC
Electronic Home Detention	2,473	42	\$4.66	\$483,756
Adult Transition Center	2,473	42	\$51.81	\$5,381,410
Other Facility	2,473	42	\$17.54	\$1,821,387
Total	7,419			\$7,686,554

Examining the geographic distribution of incoming inmates affected by HB 5666 shows that the vast majority of inmates are from Cook or Collar counties. Nearly 80% of the inmates affected come from Cook, and another 9.7% come from Collar counties.

<sup>4</sup> Currently, IDOC’s adult transition centers are used as transitional housing for inmates released from prison. This step-down process allows inmates to gradually reintegrate into society. SPAC worked with an ATC to estimate an average cost per person, excluding administrative costs. This analysis uses this cost as an approximation of what it would cost for a judge to order an offender to an ATC instead of a prison term.

<sup>5</sup> Because this cost is unknown, SPAC estimates these costs are equal to the marginal cost per inmate within an IDOC facility (\$17.54 per day).

**Table 4.** Geographic distribution of affected inmates

<b>Top 10 Committing Counties</b>		
<b>County</b>	<b>Number</b>	<b>Percent</b>
Cook	5,928	79.9
Will	279	3.8
Lake	163	2.2
Dupage	156	2.1
Winnebago	148	2.0
Kane	91	1.2
St. Clair	79	1.1
Lasalle	50	0.7
Kankakee	40	0.5
Peoria	31	0.4
Other	454	6.1
<b>Total</b>	<b>7,419</b>	<b>100.0</b>

**LIMITATIONS AND ASSUMPTIONS:**

- The analysis assumes the cost of state supervision during mandatory supervised release would remain unchanged.
- SPAC does not assume any agreements would be made between IDOC and jails for the costs of incarceration. IDOC could negotiate with local jails to maintain custody over inmates that are eligible under this bill.
- Because of insufficient data on where inmates would have been placed had this bill been in effect, SPAC assumes an equal proportion of inmates would receive electronic detention, adult transition centers, or another facility. For costs of these alternatives, SPAC (a) averaged known electronic detention costs, (b) used the marginal costs of an Illinois ATC, and (c) used the marginal cost for all IDOC facilities.
- SPAC does not include changes in intake costs because IDOC would still need to process offenders after sentencing. If this process were avoided, there could be larger benefits from lower transportation costs, fewer intake hours, and fewer medical, educational, or behavioral health screenings.
- SPAC does not include the capital cost of building or acquiring more prison beds in this impact analysis. Additional costs of building or expanding adult transition centers, adding new reception and classification capacity in high-committing counties, expanding electronic detention capacity, or adding other new facilities are not included in this analysis.

**SPAC’S FIGURES DIFFER FROM IDOC’S FISCAL NOTES FOR THE FOLLOWING REASONS:**

- IDOC projects forward ten years based on past years’ admissions to prison. In contrast, SPAC analyzes the last three years and calculates the costs that would have been incurred or avoided had the proposed changes been the law.
- IDOC accounts for the increased space needed due to keeping the same number of offenders incarcerated for a significantly longer amount of time by adding capital costs of construction to their estimate when the change to the population exceeds 500 beds. Please note that “costs of construction” reflect the higher operational costs of providing additional beds over time, whether that is done through construction of new facilities or other means such as reopening closed facilities or renting space in other jurisdictions. SPAC does not include costs of construction but uses the higher per capita cost for changes over 800 beds.

- SPAC determines annual cost estimates at the beginning of each year and uses these estimates in every analysis. This method allows for comparisons of measures throughout the legislative session.
- SPAC's statutory mandate is to prepare system-wide fiscal impact analyses which include court processes and county or local government resources as well as the state IDOC population. *See* 730 ILCS 5/5-8-8(d)(4).
- If the impact on the average daily population (ADP) is 800 people or more, SPAC uses a per capita cost which accounts for the increased administrative and space-management costs. If the change is less than 800, SPAC uses the marginal cost of incarceration which is the additional cost of adding just one inmate to the population, which does not require additional administrative or space-management costs. SPAC uses this number because 800 beds equals one housing unit and four housing units make one prison.

### **IMPACTS OF PROPOSED LEGISLATION:**

The following pages describe the impact categories that the proposed sentencing change would have on the Illinois criminal justice system. First, a narrative section describes each impact and how SPAC estimated the dollar value of the impact. Second, the tables used to create the estimates are shown in full detail.

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

**\$3,230,418**

Additional costs over three years.

The above estimates are the total costs to IDOC that would have been incurred had these policies been in place from 2013 through 2015. This estimate uses the annual marginal cost of \$6,405 per inmate, the marginal cost from fiscal year 2015. The avoided costs are due to fewer Class 4 and Class 3 felony offenders entering prison with short sentences. For these affected offenders, IDOC still needs to pay for alternative supervision such as electronic detention, adult transition centers, or another facility.

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

**N/A**

Avoided costs over three years.

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

#### **IMPACT OF PROPOSED LEGISLATION ON PROBATION:**

**N/A**

Avoided costs over three years.

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

#### **IMPACT OF PROPOSED LEGISLATION ON LAW ENFORCEMENT:**

**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.

### **IMPACT OF PROPOSED LEGISLATION ON THE JUDICIAL SYSTEM:**

**N/A**

Avoided costs over three years.

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

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

**\$267,230**

Additional victimization costs over three years.

Decreasing sentences shortens the incapacitation of offenders. SPAC incorporates the incapacitation effect of felony offenders on victims in two ways:

1. Offenders may age out—because the average age upon return to the community would be younger, the recidivism rate may be higher as younger felons generally recidivate more (negative recidivism benefits). Negative victimization benefits are additional victim costs. SPAC reviewed historical data to find recidivism rates at each age from 18 through 60 and applied these recidivism rates and trends to the age offenders would have exited, had the bill been in effect.<sup>6</sup>
  - The estimate presented here calculates the victim effects due to changes in recidivism for three age groups: those offenders under 28, who have falling recidivism rates with increased age; those offenders between 28 and 36 with rising recidivism rates; and those offenders older than 37, who exhibit gradual reductions in recidivism rates. Because these age groups' recidivism rates changed consistently across crime types, felony classes, and gender, SPAC found these methods reasonable for calculating changes in recidivism due to sentencing changes. The SPAC Victimization Supplement further describes the methodology.
2. Crimes are delayed because offenders are incapacitated meaning crimes may occur earlier or later based on the timing of the offenders' release (incapacitation benefits). Because a dollar not stolen today is worth more than a dollar stolen tomorrow, crime delays create benefits to crime victims. SPAC used a 3% discount rate to victimizations under the different incapacitation lengths to estimate a possible benefit of delayed crime.

Table 4 lists the victimization costs caused by affected HB 5666 offenders in the past, within both one and three years from release. The table shows the costs of no longer incapacitating these offenders as well as the costs of younger offenders, who are more likely to recidivate, remaining in the community.

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<sup>6</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. A full description of the methodology is available in the Victimization Supplement.

**Table 5. Victimization Costs under HB 5666**

Incapacitation Benefits	Length of Stay (Years)	Length of Stay Proposed (Years)	Difference in Years	One Year Victimization Costs per Offender	Net Present Value of Victimization Costs under Proposal (3% discount rate)	Net Present Value of Changes in Length of Stay	Number of Offenders	Victimization Benefits
	L	L'	$L' - L = D$	V1	$V1 / [(1+0.03)^T] = V1'$	$NPV = V1' - V1$	N	$NPV \times N$
	0.11	0.00	-0.11	\$323	\$324	\$1	7,419	\$8,152
<b>Total</b>								<b>\$8,152</b>

Recidivism Benefits	Age Groups for Offenders	Percent of Offenders in Each Age Group	Number Offenders	Recidivism Rate Change per Year Older	Difference in Years	Predicted Recidivism Rate Change	Ratio of Conviction Rate to Recidivism Rate	Three Year Victimization Costs per Offender	Victimization Benefits
		P	$N \times P = N'$	K	$L' - L = D$	$K \times D = E$	(Convictions: Recidivism) = Z	V3	$N' \times E \times Z \times V3$
	18 to 27	35.4%	2,626	-2.1%	-0.11	0.2%	1.65	-\$17,190	-\$179,881
28 to 36	24.4%	1,810	0.3%	-0.11	0.0%	1.65	-\$17,190	\$17,712	
37 to 50	27.4%	2,033	-0.7%	-0.11	0.1%	1.65	-\$17,190	-\$46,410	
<b>Total</b>	<b>100%</b>	<b>7,419</b>						<b>-\$208,579</b>	

	Dollar Value From 2013 to 2015
<b>Total Victimization Benefits</b>	<b>-\$200,427</b>

**DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:**

In the table below, Table 6, the race of offenders impacted by HB 5666 is described. The majority of offenders are Black, with Whites making up the second largest group.

**Table 6. Racial Impact of HB 5666**

Race	Number	Percent
Black	5,137	69.2%
White	1,267	17.1%
Hispanic	994	13.4%
Asian	14	0.2%
Indian	5	0.1%
Unknown	2	0.0%