

HOUSE BILL 5762 AND HOUSE BILL 1466 – HOUSE AMENDMENT 1

SENTENCE ENHANCEMENTS FOR METHAMPHETAMINE DELIVERY WITHIN 500 FEET OF PROTECTED PLACES

PROJECTED IDOC POPULATION IMPACT: +25 INMATES

TOTAL COSTS INCREASED OVER THREE YEARS: \$532,754

TOTAL VICTIMIZATION BENEFITS OVER THREE YEARS: \$498

NET BENEFITS (BENEFITS MINUS COSTS): -\$532,256

A negative benefit indicates that costs are greater than benefits

Table 1. Total Change in Costs over Three Years

Illinois Compiled Statutes	Statute Description	Current costs	Proposed costs	Victimization benefits	Total Benefits*
720 ILCS 646/55(a) and (b)	Meth Delivery or Possession with Intent or Aggravated Meth Delivery	\$7,663,859	\$8,196,613	\$498	-\$532,256
	TOTAL	\$7,663,859	\$8,196,613	\$498	-\$532,256

* Negative benefits are additional costs to victims.
Source: CHRI and IDOC data, SPAC calculations

House Bill 5762 ([HB5762](#)) and Amendment 1 to House Bill 1466 ([HB1466](#)) amends the Methamphetamine Control and Community Protection Act to increase the felony class from Class 2 to Class 1 and therefore the sentence term for delivery of methamphetamine and aggravated delivery of methamphetamine if the offense occurs within 500 feet of a protected place. Protected places include schools, places of worship, public parks, senior activity centers, nursing homes, or assisted living facilities.

Current data does not include protected zone information. SPAC does not have data on the location of meth offenses.¹ SPAC was approximated the percent of offenses within a protected zone by examining convictions for manufacture or delivery of a controlled substance (CSA delivery). Using the ratio of CSA delivery to CSA delivery within protected zone convictions, SPAC estimated approximately 19% of meth offenses could be within the protected zones.²

In Table 1, the total benefits column subtracts the proposed costs from the current costs and then adds in the victimization benefits. For this bill the proposed costs outweigh the proposed benefits to victims. Table 2 breaks out these costs in more detail. The following pages explain the full calculations.

Table 2. Total Change in Costs over Three Years

Change in	Three Year Value of Benefits
Local Detention Costs	\$26,756
Local Probation Costs Avoided	-\$24,035
Total Local Costs Avoided	\$2,721
State Prison Costs	\$459,008
State Supervision Costs	\$71,025
Total Additional State Costs	\$530,033
Change in State and Local Costs	\$532,754
Victimization Benefits	-\$498
Total Costs	\$532,256

¹ However, aggravated meth delivery within a school would always fall within the protected area.

² This percentage varied by region. In Cook County, approximately 37% of controlled substance delivery offenses were within a protected zone; the collar counties were 9%, urban counties were 20%, and rural counties were 16%.

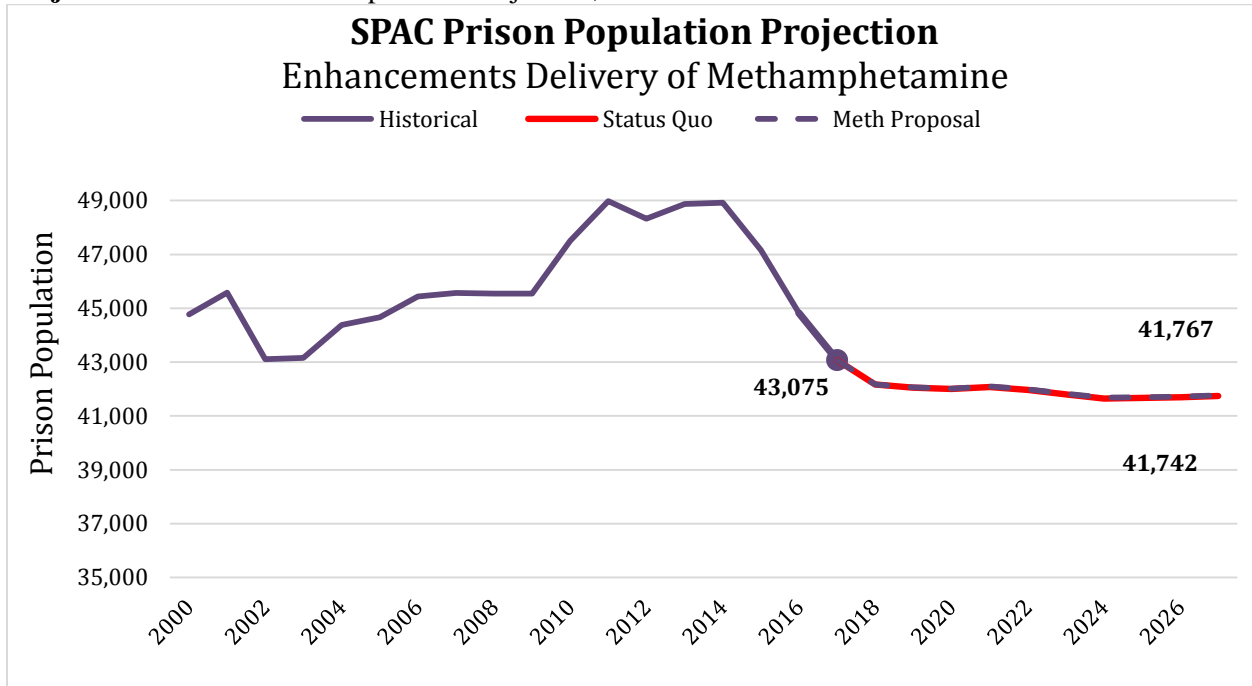
SPAC used criminal history records information (CHRI) from 2014, 2015, and 2016 to calculate the number of arrests, convictions, and sentences for delivery of methamphetamine. SPAC also used IDOC data from 2015, 2016, and 2017 for IDOC admissions, exits, and prison population. During the past three years, the data show:

Table 3. Arrests, Convictions, Sentences, and Sentence Lengths for Meth Delivery

Three Years		Delivery and Aggravated Delivery of Methamphetamine
Arrests		716
Convictions		289
Withheld Judgements		<10
Standard Probation	<i>Class X</i>	--
	<i>Class 1</i>	24
	<i>Class 2</i>	79
	<i>Class 3</i>	--
	<i>Class 4</i>	--
	Total Probation	103
IDOC Admissions	<i>Class X</i>	44
	<i>Class 1</i>	61
	<i>Class 2</i>	149
	<i>Class 3</i>	0
	<i>Class 4</i>	0
	Total Prison	254
Average Sentence Imposed		5.7 years
Average Pretrial Detention Time Served		0.5 years
Average Prison Time Served		1.7 years
June 30,2017 Prison Population	<i>Class X</i>	56
	<i>Class 1</i>	47
	<i>Class 2</i>	114
	<i>Class 3</i>	-
	<i>Class 4</i>	-
	Total Prison Population	217

SPAC PRISON POPULATION PROJECTION

Projection 1. SPAC Prison Population Projection, HB5762/HB1466



A population projection answers the question “What if these policies were enacted?” In the projection above, the red line shows the baseline, status quo projection of the prison population estimated for June 30th of each year. The projected impact results from assuming 19% of meth admissions are within the protected zones, resulting in longer sentences and longer time served, resulting in an increase in the prison population above the status quo. The impact on the prison population would be approximately 25 additional inmates.

The projections rely on the assumption that admissions, sentences, and IDOC discretionary sentence credit awards remain consistent with the recent past, FY2017. The only change between the status quo and the HB5762 and HB1466 projection is the sentence imposed on 19% of the meth admissions. Other impacts, such as changes to crime rates, 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 meth enhancement scenario.

The model uses the following assumptions:

- The proportion of delivery or possession with intent to deliver a controlled substance under the Controlled Substances Act (720 ILCS 570) is representative of the locations of meth delivery. The assumption is varied by geographic region of the State, assuming that:
 - 37% of meth delivery admissions from Cook County are near a protected place,
 - 9% of meth delivery admissions from collar counties are near a protected place,
 - 20% of meth delivery admissions from urban counties are near a protected place, and
 - 16% of meth delivery admissions from rural counties are near a protected place.
- Every conviction of aggravated delivery of meth is given the longer sentence for being near a protected place.
- The sentence increase for delivery near a protected zone is two additional years of prison.

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.

SPAC FISCAL IMPACT ANALYSIS METHODOLOGY

SPAC looks retrospectively at the past three fiscal years, 2015 through 2017, to determine the fiscal impact of these policies had they been in effect. The data for arrests, convictions, IDOC admissions, and probation sentences are from Criminal History Reporting Information (CHRI, past three calendar years available, 2014-2016) and from the IDOC’s Planning and Research Division (past three fiscal years, FY2015-2017). To calculate the cost of the criminal justice system, SPAC uses CHRI and IDOC data on (A) the number of convictions for first and subsequent arrests under the applicable statutes, (B) the average length of stay in county and IDOC facilities, and (C) past spending on prisons and county criminal justice systems.³

SPAC uses a dynamic marginal cost (DMC) methodology that was developed after analyzing both state and local public safety budgeting over several decades. Budgets in Illinois are most frequently based on past appropriations and expenditures to minimize disruptions in services and government spending, resulting in a divergence of costs from services: *i.e.*, the number of prisoners in State prisons, or probationers supervised by county probation departments, is not predictive of those agencies’ budgets. The DMC approach matches SPAC’s fiscal analysis with this reality by utilizing steps at which costs would be expected to change, with each step having a separate economic value.

Dynamic marginal costs allow a more accurate calculation of costs per client where the costs depend on the magnitude of the change compared to the status quo. The DMC can include multiple cost types: (1) traditional variable costs, which vary directly with changes in service and are consistent for the first or thousandth person; (2) step costs, which are primarily personnel costs that change only when the services increase or decrease sufficiently to affect staffing and grow with the number of steps; and (3) fixed costs, which are related to physical space requirements that vary only with large service changes.

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

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

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

³ Local costs are estimated from SPAC’s survey of county budgets, available on SPAC’s website: <http://ilspac.illinois.gov>.

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 table used to create the estimates are shown in full detail.

IMPACT OF PROPOSED LEGISLATION ON STATE PRISONS:

\$459,008

Additional costs over three years.

The above estimates are the total additional costs to IDOC had these policies been in place from 2015 through 2017. This cost increased is created by a longer length of stay for offenders who would receive the sentence enhancements under HB5762 and HB1466 and additional offenders entering the system who would have received probation without the sentence enhancement being in place.

IMPACT OF PROPOSED LEGISLATION ON STATE SUPERVISION:

\$71,025

Additional costs over three years.

This bill would increase the length of time individuals exiting prison would be spending on MSR because of the increased offense class.

IMPACT OF PROPOSED LEGISLATION ON COUNTY JAILS:

\$26,756

Additional costs over three years.

The additional jail costs are calculated because, controlling for other factors, longer prison sentences are correlated with longer pretrial detention. SPAC analysis showed a relationship of 29 days longer pretrial detention for each additional year sentence, holding other factors constant. This estimate is applied to all offenders receiving an enhancement where the offense class increases and reflects the additional time and processing for the longer sentencing hearing—the task of assessing the possible justification for a downward departure—which could delay admission to prison and increase time in jail custody and costs for county sheriffs. Because the effect of the legislation on prosecution and law enforcement are unknown, we conservatively assume that no more offenders would be charged and held by jails during judicial processing. In addition to the longer jail stays, the county jail systems must continue to accommodate:

IMPACT OF PROPOSED LEGISLATION ON LOCAL PROBATION:

\$24,305

Costs avoided for local probation departments.

This bill would cost less money for local probation departments because individuals who are currently eligible to receive probation would no longer be eligible for probation and would instead receive prison sentences.

IMPACT OF PROPOSED LEGISLATION ON VICTIMS AND COMMUNITIES:

\$498

Avoided victimization costs over three years.

Increasing sentences incapacitates offenders for a longer time period. SPAC incorporates the incapacitation effect on victims in two ways:

1. Offenders may age out—because the average age at exit would be older, the recidivism rate may be lower as older felons generally recidivate less (*Recidivism Benefits*). 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.⁴
 - The estimate presented here calculates the benefits 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 because of 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. This effect is generally referred to as the social discount rate. SPAC used a 3% discount rate to victimizations under the different incapacitation lengths to estimate a possible benefit of delayed crime.

Table 4 shows the victimization costs which are calculated based on Illinois data of on crimes committed by past methamphetamine delivery offenders after release from prison, within both one and three years from release. The table shows the benefits of delayed release due to the new sentence lengths and the benefits of changing the age at release (benefits of changing recidivism levels). The table shows the maximum predicted benefits—the benefits possible if no offenders received downward departures.

Table 4. Maximum Victimization Effects (No Offenders Received Downward Departures)

Illinois Compiled Statutes 720 ILCS 646/55	First Year Victimization Costs	Three Years Victimization Costs	Incapacitation Benefits	Recidivism Benefits	Total Victimization Benefits
Manufacture & Delivery, Possession	\$30	\$989	\$47	\$451	\$498

Table 5 provides a comparison between current law and the proposed legislation that would be in effect if HB5762 or HB1466 were to be approved. The definition of a protected places include schools, places of worship, public parks, or places primarily used for housing or providing activities to senior citizens. Under the proposed legislation individuals arrested for delivery of methamphetamine in these areas will be subject to the sentence enhancements.

⁴ 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: Proposed Legislation Changes in HB5762/HB1466

	Delivery or Possession with Intent to Deliver 720 ILCS 646/55(a)	
Drug Amounts Specifically Described	Current Law	Proposed Sentence when within 500 Feet of a Protected Place
(a)(2)(A) Under 5 grams	<i>Class 2</i>	<i>Class 1</i>
(a)(2)(B) 5-15 grams	<i>Class 1</i>	<i>Class X</i>
(a)(2)(C) 15-100 grams	<i>Class X</i>	<i>Class X</i> <i>(8-32 extended term)</i>
(a)(2)(D) 100-400 grams	<i>Class X</i> <i>(9-40 extended term)</i>	<i>Class X</i> <i>(11-42 extended term)</i>
(a)(2)(E) 400-900 grams	<i>Class X</i> <i>(12-50 extended term)</i>	<i>Class X</i> <i>(14-52 extended term)</i>
(a)(2)(F) 900 or more grams	<i>Class X</i> <i>(15-60 extended term)</i>	<i>Class X</i> <i>(17-62 extended term)</i>

	Aggravated Delivery or Possession with Intent to Deliver 720 ILCS 646/55(b)	
Drug Amounts Specifically Described	Current Law	Proposed Sentence when within 500 Feet of a Protected Place
(b)(1)(A) buyer is under 18	<i>(sentences below, based on weight)</i>	<i>(newly enhanced sentences below if near a school, based on weight)</i>
(b)(1)(B) seller uses or employs someone under 18		
(b)(1)(C) building or vehicle is protected by firearms or explosives		
(b)(1)(D) delivery is in a school or school-owned property		<i>(newly enhanced sentences below, based on weight)</i>
(b)(1)(E) buyer is pregnant		<i>(newly enhanced sentences below if near a school, based on weight)</i>
(b)(2)(A) Under 5 grams	<i>Class 1</i>	<i>Class X</i>
(b)(2)(B) 5-15 grams	<i>Class X</i>	<i>Class X</i> <i>(8-32 extended term)</i>
(b)(2)(C) 15-100 grams	<i>Class X</i> <i>(8-40 extended term)</i>	<i>Class X</i> <i>(10-42 extended term)</i>
(b)(2)(D) 100 or more grams	<i>Class X</i> <i>(10-50 extended term)</i>	<i>Class X</i> <i>(12-52 extended term)</i>

DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

Table 7 shows the race and gender of offenders admitted to IDOC. Table 8 shows where these commitments to IDOC originate. Finally, Table 9 shows the relationship between geography and race for delivery of methamphetamine to State prisons. Here, race is self-identified upon admission to prison. The “Other” includes self-identified Hispanic, Asian/Island Pacific, Native American, and Unknown races.

Table 7: Past Three Years Admissions to IDOC for Delivery of Methamphetamine

	Male	Female	Total	Percent
White	150	52	202	80%
Black	19	0	19	8%
Other	32	1	33	13%
Total	79.1%	20.9%	254	100%

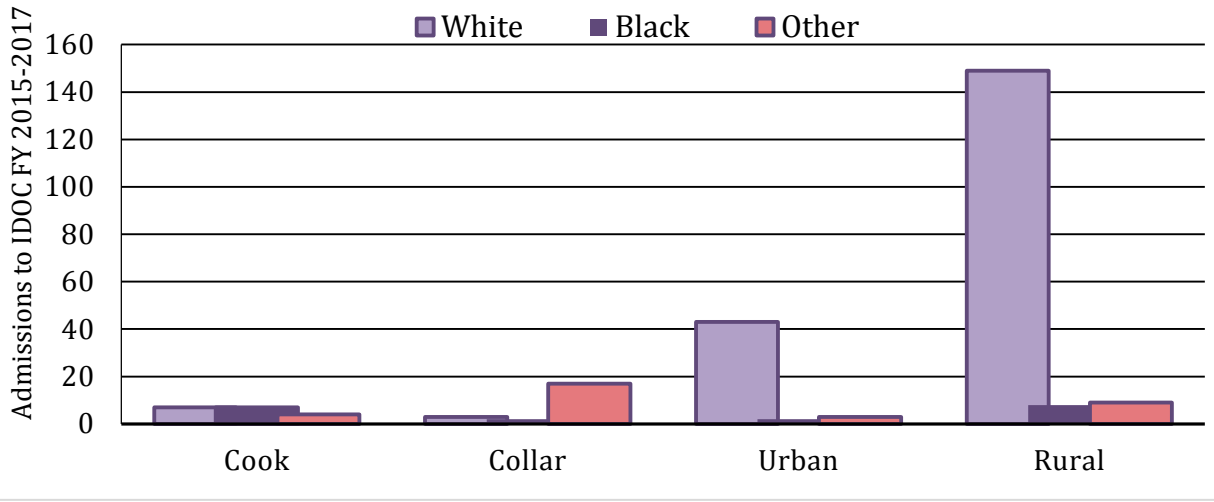
Table 8: Top 10 Admitting Counties for Delivery of Methamphetamine

County	Number of Admissions	Percent
Cook	18	7%
Madison	14	6%
Jefferson	12	5%
Randolph	12	5%
Adams	11	4%
Will	11	4%
Coles	10	4%
St. Clair	9	4%
Wabash	9	4%
Sangamon	8	3%
Other	140	55%
Total	254	100%

Table 9: Race by Geographic Region over Past 3 Years for Delivery of Methamphetamine

	Cook	Collar	Urban	Rural	Percent
White	7	3	43	149	80%
Black	7	2	2	8	8%
Other	4	17	3	9	13%
Total	7.1%	8.7%	18.9%	65.4%	254

Delivery of Methamphetamine Admissions to Prison



Meth Delivery and Possession with Intent
720 ILCS 646/55
For Fiscal Years 2015, 2016, and 2017

Total arrests	716
Total convictions	289
Total withheld judgments	<10

Withheld judgments are charges that are dismissed or judgment of built vacated upon completion of a set period of time and tasks.

	Dollar Value from 2014-16
Current Costs	\$7,663,859
Proposed Costs	\$8,196,613
Victimization Benefits	\$498
Total Costs	\$532,256

Sentences	Number of Offenders	Average Sentence Imposed (years)	Average Jail Stay Prior to IDOC Sentence (years)	Average Sentence Served in IDOC (years)
	Pretrial Detention	359		1.62
Probation	105	2.53		
Class 2 Felony	149	4.45	0.30	1.48
Class 1 Felony	61	5.59	0.52	1.59
Class X Felony	44	9.97	3.94	4.00

** Averages for sentence served are from previous years exits, not recent admissions, which are the source for sentences imposed.
 * Average sentence served is the time less credit for time served in pretrial detention and any sentence credits for which the offender is eligible.*

Current Cost	Cost	Length of Stay (Years)	Current Cost for Each Offender	Number of Offenders	Total Cost of Current System
	C	L	C x L	N	C x L x N
Pretrial Detention	\$3,177	1.62	\$5,147	359	\$1,847,680
Probation	\$1,900	2.53	\$4,807	105	\$504,735
Class 2 Felony	\$7,776	1.48	\$11,508	149	\$1,714,764
Class 1 Felony	\$7,776	1.59	\$12,364	61	\$754,194
Class X Felony	\$7,776	4.00	\$31,104	44	\$1,368,576
IDOC supervision Class 2	\$2,841	1.90	\$5,398	149	\$804,287
IDOC Supervision Class 1	\$2,841	1.70	\$4,830	61	\$294,612
IDOC Supervision Class X	\$2,841	3.00	\$8,523	44	\$375,012
Total				359	\$7,663,859

Note: SPAC uses the average cost of supervising all risk levels of offenders from AOIC's 2015 calculations. IDOC Supervision is average time spent on MSR for these offenders.

Predicted Sentence (Length of Stay Under Proposal)	School Zone Enhancement	New Average Sentence Imposed	Truth-in-Sentencing Credits for Good Time	Estimated Average Pretrial Detention	Total Length of Stay in Prison (years)
	Class X Enhancements		11.97	75%	4.10

** New average sentence imposed is the previous average sentence plus an additional 2 years, the enhancement under the proposal.*

Effect of Legislative Proposal	Cost	Length of Stay Proposed (Years)	Predicted Cost for Each Offender	Number of Offenders	Total Cost of Predicted System
	C	L'	L' x C	N	L' x C x N = TC'
Pretrial Detention (unaffected)	\$3,177	1.62	\$5,147	306	\$1,574,902
Pretrial Detention (enhanced)	\$3,177	1.78	\$5,652	53	\$299,534
Probation	\$1,900	2.53	\$4,807	100	\$480,700
Class 2 Felony	\$7,776	1.48	\$11,508	121	\$1,392,526
Class 1 Felony	\$7,776	1.59	\$12,364	77	\$952,016
Class X (unaffected)	\$7,776	4.00	\$31,104	53	\$1,648,512
Class X (enhanced)	\$7,776	4.88	\$37,936	8	\$303,488
IDOC Supervision Class 2	\$2,841	1.90	\$5,398	121	\$653,146
IDOC Supervision Class 1	\$2,841	1.70	\$4,830	77	\$371,887
IDOC Supervision Class X	\$2,841	3.00	\$8,523	61	\$519,903
Total				359	\$8,196,613

Note: Some convictions are unaffected by the proposed legislation because they are not near schools. The costs of the legislative proposal are equal to the current costs.

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	$NPV \times N$
Class X Felony	4.00	4.88	0.88	\$30	\$29	\$1	61	-\$47
Class 1 Felony	1.59	1.59	0.00	\$30	\$30	\$0	77	\$0
Total							138	\$47

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 x P = N'	K	L' - L = T	K x T = E	(Victims:Conviction) = Z	V3	N' x E x Z x V3	
18 to 27	17.6%	12	-2.1%	0.88	-1.8%	1.68	-\$989	\$368	
28 to 36	44.1%	30	0.3%	0.88	0.3%	1.68	-\$989	-\$131	
37 to 50	30.9%	21	-0.7%	0.88	-0.6%	1.68	-\$989	\$215	
Total	93%	138					Total	\$451	

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.