

SENATE BILL 1848
ELIMINATION OF FELONY SENTENCE FOR NARCOTIC VIOLATIONS UNDER 1 GRAM
720 ILCS 570 SECTION 402(C) AND 720 ILCS 646 SECTION 60(B)

TOTAL BENEFITS IN REDUCED COSTS OVER THREE YEARS: \$59.4 MILLION
TOTAL VICTIMIZATION COSTS OVER THREE YEARS: \$1.8 MILLION

NET BENEFITS (BENEFITS MINUS COSTS): \$57,606,695

Table 1. Total Change in Costs over Three Years

	Statute Description	Current costs	Proposed Costs	Difference	Victimization Benefits	Total Benefits*
570/402(c)	Possession of Controlled Substance	\$197,193,185	\$142,422,157	\$54,771,028	-\$1,801,507	\$52,969,521
646/60(a)-(b)(1)	Possession of Methamphetamine	\$11,761,637	\$7,121,351	\$4,640,286	-\$3,112	\$4,637,174
	TOTAL	\$208,954,822	\$149,543,508	\$59,411,314	-\$1,804,619	\$57,606,695

* 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 Benefits). Negative victimization benefits are additional costs to victims in Illinois.
Source: CHRI and IDOC data, SPAC calculations

Senate Bill 1848 ([SB 1848](#)) amends both the Controlled Substances Act and the Methamphetamine Act to reclassify possession of under 1 gram of a controlled substance or methamphetamine from a Class 4 felony to a Class A misdemeanor.¹ SPAC used the most recent data from fiscal years 2011, 2012, and 2013 for arrests, convictions, IDOC admissions, and probation sentences to identify the number of individuals charged with narcotics offenses in those years. These numbers are then used to calculate the costs to the system had the policy been in effect for those years.

In Table 1 above, the total benefits column includes both victim and state and local government costs. Table 2 (below right) divides out these costs by the beneficiary. The following pages explain each subsection's calculations.

POLICY QUESTION: Will this policy change generate an increase in crime that would outweigh the benefits of this proposal?

SPAC has refined its methodology to include analysis of potential victimization costs and benefits to more accurately reflect the total impact of proposed legislation. Changes in sentence length may affect victimization rates in two ways: First, SPAC analysis of the age of offenders leaving prison and their recidivism showed that, as offenders age, they tend to be less likely to recidivate. Second, some crimes are delayed because offenders are incapacitated, creating the benefit of longer time periods without victimizations by that offender.

Table 2. Total Change in Costs over Three Years

Change in	Three Year Value of Benefits
Local Detention Benefits	-\$8,712,535
Local Probation Benefits	-\$8,895,534
Total Local Costs Avoided	-\$17,608,069
State Prison Benefits	\$77,019,383
State Supervision Benefits	\$0
Total State Costs Avoided	\$77,019,383
Total Costs Avoided	\$59,411,314
Victim costs	-\$1,804,619
Total Benefits	\$57,606,695

¹ The Controlled Substance Act covers most Schedule I and II narcotics. It does not include methamphetamine (regulated under 720 ILCS 646) and cannabis (regulated under 720 ILCS 550).

Table 3. Sentencing Changes to the Controlled Substances Act and Meth Act – SB 1848

Amounts		Possession of a Narcotic	
		Current Law	Proposed
Possession of less than the amount set forth in subsection (a) of a controlled substance 720 ILCS 570/402(c)	Less than 1 gram (c)	Class 4 (\$25,000 fine)	Class A (\$2,500 fine)
	Between 1g and subsection (a) (c-5)		Class 4 (\$25,000 fine)
Less than 5 grams of methamphetamine 720 ILCS 646/60(b)(1)	Less than 1 gram (b)(0.5)	Class 3	Class A
	Between 1g and 5g (b)(1)		Class 3

METHODOLOGY: SPAC performed a retrospective analysis of data on arrests, convictions, and sentences for these offenses in fiscal years 2011, 2012, and 2013. This approach will be used while SPAC builds its capacity to produce a reliable population projection. Because Illinois-specific data on the quantity of drugs found in each narcotic incident is not reported, SPAC used national data collected by the National Incident Based Reporting System (NIBRS, 2011) to estimate drug quantities for drug possession cases.

To calculate the cost of state corrections spending on these offenses for 2011 through 2013, SPAC used CHRI and IDOC data on (A) the number of convictions under the applicable statutes, (B) the average length of stay in IDOC facilities, and (C) the per capita cost per inmate per year. SPAC used the per capita cost of \$22,201, because the change affected over 800 inmates, which is the size of a housing unit. This number accounts for the increased administrative and operational costs of obtaining and maintaining additional bed space. SPAC will use the marginal cost figure of \$5,834 per inmate, which represents the cost of adding one additional inmate, when the population change is less than 800 inmates.

For local costs, SPAC surveyed county jails on marginal costs. The responses provided a statewide average marginal cost of \$15,256 per person; this number incorporates Cook County, suburban counties, and counties across the state. The Administrative Office of the Illinois Courts (AOIC) calculated the cost of probation based on risk level. The \$1,800 per person per year is the average of the annual cost of all three risk levels. To calculate the cost of pretrial detention, local supervision (probation), and misdemeanor jail sentences, SPAC examined the CHRI data for time served (pretrial detention) and the sentence lengths ordered by the court for jail or probation terms. These costs would have been avoided had the bill been in effect for these three years.

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.

LIMITATIONS AND ASSUMPTIONS:

- The analysis excludes the cost of state supervision during mandatory supervised release.
- SPAC does not include the local costs for detaining offenders who are arrested but not convicted or given a withheld judgment.
- To calculate the total number of offenders with arrests, convictions, probation sentences, or withheld judgments, SPAC counts the number of offenders with at least one charge under each subsection of the Controlled Substances Act or Meth Control and Community Protection Act. For the total number of offenders admitted to IDOC, SPAC counts offenders only under their most serious offense.
- The capital cost of building or acquiring more prison beds is not included.
- Costs for criminal justice employees’ health and pension benefits are not included because they are carried in the Central Management Services (CMS) budget and not the individual agency budgets.

IDOC estimates that taxpayers pay an additional \$14,901 per inmate per year for health and pension benefits.

- Because of the lack of Illinois-specific data, SPAC assumes that Illinois drug possession cases are roughly similar to national possession cases reported to NIBRS. The NIBRS data report the quantity of drugs found in each incidents.

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 occurred had the proposed changes been the law. Both methods assume that there are no additional offenders being sentenced as a result of this proposal.
- 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 the "costs of construction" in IDOC's fiscal notes 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.
- SPAC determines annual cost estimates at the beginning of each year and uses these estimates in every analysis for that year. This method allows for comparisons of bills throughout the legislative session.
- 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, as this 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.

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:

\$77,019,383

Avoided costs over three years.

The above estimates are the total costs to IDOC that would have been avoided had these policies been in place from 2011 through 2013. This estimate uses the annual per capita cost of \$22,201 per inmate because the population impact is greater than 800 inmates. This estimate excludes IDOC post-release supervision costs and is due solely to fewer Class 4 felony offenders entering prison. This figure does not include the costs for pension and health care benefits that are part of the CMS budget. IDOC estimates that taxpayers pay an additional \$14,901 per inmate per year for these benefits.

IMPACT OF PROPOSED LEGISLATION ON COUNTY JAILS:

\$8,712,535

Additional costs over three years.

Jails would see an increase in their average daily population due to more offenders being sentenced to misdemeanor jail terms. Without data on how judges would sentence controlled substance misdemeanors, SPAC estimates that one of every three Misdemeanor A offenders would receive a jail sentence. SPAC hypothesized each offender would get sentences of 365 days and serve 50% of that time, minus the average pretrial detention credits. Statewide, SPAC calculates the impact with the estimated jail detention cost of \$15,256 per inmate per year. SPAC excludes the cost of detaining individuals arrested or charged but not convicted.

IMPACT OF PROPOSED LEGISLATION ON PROBATION:

\$8,895,534

Additional costs over three years.

As a general rule, probation costs significantly less than prison. For this analysis, SPAC used \$1,800 per individual per year as the average cost of probation based on information provided by AOIC for fiscal year 2013. The costs are increased due to more offenders being sentenced to probation or supervision rather than sent to prison. Without data on how judges would sentence controlled substance misdemeanors, SPAC based its estimate that two of every three misdemeanor offenders would receive a probation sentence on the patterns of probation vs. prison sentences for the current felony offenses. SPAC assumes the probation terms would be consistent with the average for these offenses over the past three years, between 1.33 and 1.54 years, which is less than the maximum two year probation term for Class A misdemeanors.

IMPACT OF PROPOSED LEGISLATION ON VICTIMS, PUBLIC SAFETY, AND COMMUNITIES:

\$1,804,619

Additional victimization costs over three years.

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

1. Offenders may age out—because the average age at exit would be younger, the recidivism rate may be slightly higher as younger felons generally recidivate more (*Recidivism Benefits* in Table 4 below). In the calculation pages below, negative victim benefits are additional victim costs. SPAC reviewed historical data from IDOC and from CHRI to find recidivism rates at each age from 18 through 60 and applied these recidivism rates and trends to the age offenders would have exited prison had the bill been in effect.²
 - The estimate presented here calculates the victim effects due to changes in recidivism for three age groups: those offenders under 27, who have falling recidivism rates with increased age; those offenders

² 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.

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 this methodology.

- This effect is estimated only on those offenders who still receive some incarceration because the best national research has not determined whether incarceration has a causal relationship with crime. SPAC's methodology only assumes there is a correlative effect between age and timing of recidivism due to incarceration. More research is necessary to determine further victimization impacts.
2. Crimes are delayed because offenders are incapacitated meaning crime occurs earlier or later based on the timing of the offenders' release (*Incapacitation Benefits* in Table 4). 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 lists the victimization costs caused by narcotics offenders in the past, 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).

Table 4. Victimization Effects (negative numbers represent additional victimization costs)

	First Year Victimization Costs	Three Years Victimization Costs	Incapacitation Benefits	Recidivism Benefits	Total Victimization Benefits
Possession of Controlled Substance 570/402(c)	\$25,099	\$56,772	-\$1,638,892	-\$162,615	-\$1,801,507
Possession of Methamphetamine 646/60(b)	\$392	\$1,065	-\$2,632	-\$480	-\$3,112

OTHER UNKNOWN IMPACTS OF PROPOSED LEGISLATION:

JUDICIAL SYSTEM.

At this time, no reliable data are available to estimate the effects on court operations due to reclassifying these offenses.

LAW ENFORCEMENT.

At this time, no reliable data are available to estimate the effects on law enforcement operations due to reclassifying these offenses.

Possession of a Controlled Substance

720 ILCS 570/402(c)

Fiscal years 2011, 2012, and 2013

Total Arrests	70,649
Total Convictions	20,164
Total Withheld Judgments	5,111

Withheld judgments result in charges being dismissed or the judgment of guilt being vacated upon successful completion of 1410, 710, or TASC probation.

	Dollar Value From 2011 to 2013
Current Cost	\$197,193,185
Proposed Cost	\$142,422,157
Victimization Benefits	-\$1,801,507
Total Benefits	\$52,969,521

Sentences		Number of Offenders	Average Sentence Imposed (days)	Average Sentence Imposed (years)	Average Sentence Served (years)
			A	A / 365.25	L
			Pretrial Detention	19,424	70.7
Probation	8,093	485	1.33	1.33	
Special Probation	3,056	561	1.54	1.54	
Misdemeanor Jail Term	-	365	1.00	0.31	
Prison	8,275	537	1.47	0.61	

Note: Special probation refers to supervision with special conditions, such as 1410, 710, or TASC probation.

Pretrial Detention Calculation	Number of Offenders	Average Pretrial Detention (days)
Probation	3,472	82
Special Probation (WJS)	1,080	19
IDOC Prison	8,275	129
<i>Sub total:</i>	<i>12,827</i>	<i>107.02</i>
Total	19,424	70.7

Current Costs		Cost	Length of Time (Years)	Number of Offenders	Current Cost for Each Offender	Total Cost of Current System
		C	L	N	C x L	C x L x N
		Pretrial Detention	\$15,256	0.19	19,424	\$2,952
Probation	\$1,800	1.33	8,093	\$2,390	\$19,343,433	
Special Probation	\$1,800	1.54	3,056	\$2,765	\$8,448,867	
Prison	\$22,201	0.61	8,275	\$13,543	\$112,065,098	
Total				\$21,649	\$197,193,185	

Note: SPAC uses the average cost of supervising all risk levels of offenders from AOIC's 2011 calculations.

Ratios for Dividing Effects		Percent	Number		Percent	Number (of those under 1 gram)	
		Under 1 gram	63.7%	5,271	Probation	66.6%	3,511
		Over 1 gram, under 402(a) amounts	36.3%	3,004	Incarceration	33.4%	1,761

Note: SPAC analysis of 2011 National Incident Based Reporting System data

Effect of Legislative Proposal	Area Affected	Cost	Length of Time Expected (Years)	Number of Offenders	Cost of Legislative Proposal Per Offender	Total Cost of Legislative Proposal
		C	L'	N	C x L'	C x L' x N
	Pretrial Detention	\$15,256	0.19	19,424	\$2,952	\$57,335,786
Probation	\$1,800	1.33	11,604	\$2,390	\$27,734,278	
Special Probation	\$1,800	1.54	3,056	\$2,765	\$8,448,867	
Misdemeanor Jail Term	\$15,256	0.31	1,761	\$4,671	\$8,223,595	
Prison	\$22,201	0.61	3,004	\$13,543	\$40,679,630	
Total				\$26,320	\$142,422,157	

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 Cost under Proposal (3% discount rate)	Net Present Value of Release Change	Number of Offenders	Victimization Benefits
	L	L'	L' - L = T	V1	$V1 / [(1+0.03)^T] = V1'$	$NPV = V1' - V1$	N	$NPV \times N$
	0.61	0.19	-0.42	-\$25,099	-\$25,409	-\$311	5,271	-\$1,638,892
Total							-\$1,638,892	

Recidivism Benefits	Age Groups	Percent of Offenders in Each Age Group	Number Offenders	Recidivism Rate Change per Year	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 = T	$K \times T = E$	$(\text{Convictions} : \text{Recidivism}) = Z$	V3	$N' \times E \times Z \times V3$
	18 to 27	32.4%	570	-2.1%	-0.11	0.2%	1.65	-\$56,772	-\$123,817.21
28 to 36	26.0%	458	0.3%	-0.11	0.0%	1.65	-\$56,772	\$14,194.21	
37 to 50	41.6%	732	-0.7%	-0.11	0.1%	1.65	-\$56,772	-\$52,991.73	
Total	100%	1,761						-\$162,615	

The recidivism benefits are only applied to those offenders who would still receive some incarceration under the bill. Recidivism and crime rates for individuals who have not been arrested, convicted, or incarcerated cannot be estimated from the historical crime data at this time.

Please note that the table above shows the numbers rounded to the nearest whole number, tenth, or hundredth. The calculations that produce the total benefits use the entire number rather than the rounded number. Calculations using the rounded approximations will produce slightly different results than those shown above.

Possession of Methamphetamine under 5 grams

720 ILCS 646/60(b)(1)
Fiscal years 2011, 2012, and 2013

Total Arrests	1,477
Total Convictions	888
Total Withheld Judgments	304

Withheld judgments result in charges being dismissed or the judgment of guilt being vacated upon successful completion of 1410, 710, or TASC probation.

	Dollar Value From 2011 to 2013
Current Cost	\$11,761,637
Proposed Cost	\$7,121,351
Victimization Benefits	-\$3,112
Total Benefits	\$4,637,174

Sentences		Number of Offenders	Average Sentence Imposed (days)	Average Sentence Imposed (years)	Average Sentence Served (years)
			A	A / 365.25	L
Pretrial Detention		1,074	43.0	0.12	0.12
Probation		435	612	1.68	1.68
Special Probation		291	500	1.37	1.37
Misdemeanor Jail Term		-	365	1.00	0.38
Prison		348	968	2.65	1.01

Note: Special probation refers to supervision with special conditions, such as 1410, 710, or TASC probation.

Pretrial Detention Calculation	Number of Offenders	Average Pretrial Detention (days)
Probation	123	59
Special Probation (WIS)	85	20
IDOC Prison	348	107
<i>Subtotal:</i>	556	83.08
Total	1,074	43.0

Current Costs		Cost	Length of Time (Years)	Number of Offenders	Current Cost for Each Offender	Total Cost of Current System
		C	L	N	C x L	C x L x N
Pretrial Detention		\$15,256	0.12	1,074	\$1,796	\$1,929,419
Probation		\$1,800	1.68	435	\$3,016	\$1,311,967
Special Probation		\$1,800	1.37	291	\$2,464	\$717,043
Prison		\$22,201	1.01	348	\$22,423	\$7,803,207
Total					\$29,700	\$11,761,637

Note: SPAC uses the average cost of supervising all risk levels of offenders from AIOC's 2011 calculations.

Ratios for Dividing Effects		Percent	Number		Percent	Number (of those under 1 gram)
Under 1 gram		72.2%	251	Probation	66.6%	167
Over 1 gram, under 402(a) amounts		27.8%	97	Incarceration	33.4%	84

Note: SPAC analysis of 2011 National Incident Based Reporting System data

Effect of Legislative Proposal	Area Affected	Cost	Length of Time Expected (Years)	Number of Offenders	Cost of Legislative Proposal Per Offender	Total Cost of Legislative Proposal
		C	L'	N	C x L'	C x L' x N
Pretrial Detention		\$15,256	0.12	1,074	\$1,796	\$1,929,419
Probation		\$1,800	1.68	602	\$3,016	\$1,816,657
Special Probation		\$1,800	1.37	291	\$2,464	\$717,043
Misdemeanor Jail Term		\$15,256	0.38	84	\$5,826	\$488,940
Prison		\$22,201	1.01	97	\$22,423	\$2,169,292
Total					\$35,526	\$7,121,351

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 Cost under Proposal (3% discount rate)	Net Present Value of Release Change	Number of Offenders	Victimization Benefits
	L	L'	L' - L = T	V1	$V1 / [(1+0.03)^T] = V1'$	$NPV = V1' - V1$	N	$NPV \times N$
	1.01	0.12	-0.89	-\$392	-\$402	-\$10	251	-\$2,632
Total								-\$2,632

Recidivism Benefits	Age Groups	Percent of Offenders in Each Age Group	Number Offenders	Recidivism Rate Change per Year	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 = T	$K \times T = E$	$(\text{Convictions} : \text{Recidivism}) = Z$	V3	$N' \times E \times Z \times V3$
	18 to 27	24.4%	20	-2.1%	-0.51	1.1%	1.65	-\$1,065	-\$385.45
	28 to 36	40.3%	34	0.3%	-0.51	-0.2%	1.65	-\$1,065	\$90.95
	37 to 50	35.3%	30	-0.7%	-0.51	0.4%	1.65	-\$1,065	-\$185.88
Total		100%	84						-\$480

The recidivism benefits are only applied to those offenders who would still receive some incarceration under the bill. Recidivism and crime rates for individuals who have not been arrested, convicted, or incarcerated cannot be estimated from the historical crime data at this time.

Please note that the table above shows the numbers rounded to the nearest whole number, tenth, or hundredth. The calculations that produce the total benefits use the entire number rather than the rounded number. Calculations using the rounded approximations will produce slightly different results than those shown above.