

SENATE BILL 3072

LIMITS HABITUAL CRIMINAL SENTENCING PENALTY TO 21 YEARS OLD AND FORCIBLE PRIORS

730 ILCS 5/5-4.5-95

INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

Senate Bill 3072 ([SB3072](#)) amends the Unified Code of Corrections to change the three-strike sentencing enhancement's eligibility criteria by raising the required age at the first strike for a natural life enhancement and (2) by limiting the eligible felonies to only forcible felonies for the Class X enhancement. These two changes reduce the number of individuals who would be eligible for the habitual criminal sentencing enhancement.

Under 730 ILCS 5/5-4.5-95(a), habitual offenders whose third qualifying offense occurred when he or she was 18 years of age or older shall be sentenced to natural life in prison. SB3072 requires all three qualifying offenses to happen after the individual reaches 21 years of age or older. Eligible offenses include all Class X felonies, criminal sexual assault, aggravated kidnaping, or first-degree murder.

To evaluate the prospective eligible population for this proposed measure, SPAC analyzed Illinois Department of Corrections (IDOC) prison admissions data and the Criminal History Record Information (CHRI) conviction records. SPAC could not identify exactly which individuals were sentenced as habitual criminals with life sentences because sentencing citations are not included in CHRI.¹ There were 30 Class X admissions in FY2017-2019 with natural life sentences, an upper bound of those potentially impacted by this change.

Under 730 ILCS 5/5-4.5-95(b) an individual over 21 years old who is convicted of a third Class 1 or Class 2 felony is subject to a sentence in the Class X range of 6 to 30 years regardless of the type of felonies. SB3072 limits the Class X enhancement to three or more Class 1 or 2 forcible felonies. IDOC data flags Class 1 and 2 convictions that are sentenced as Class X.² These cases are the cohort for this eligibility pool analysis provided in Tables 1 through 3.

SPAC reviewed and counted the past three years of admissions to IDOC that had the required three convictions in their criminal histories. SPAC compared current law and SB3072 by using the age at arrest in CHRI, plus the additional offense restriction in SB3072 (see Table 1). Fifty-three percent of the sentence-enhanced admissions were not for a forcible felony and would certainly not be eligible under SB3072. About 18% of individuals who currently qualify would remain eligible because the crime of conviction was a forcible felony and they had prior convictions that still meet the criteria under SB3072; 17% would be rendered ineligible because they did not have enough prior offenses that were forcible felonies at 21 years of age; and 12% are forcible felonies but missing prior conviction data does not allow SPAC to determine their eligibility under SB3072.³ Missing convictions in the CHRI data impact the analysis, however it is a reasonable estimate of the number of individuals who would have been impacted had this law been in effect over the past three years.

¹ IDOC data includes court findings that flag a sentence as being a habitual criminal life sentence, but analysis of Class X life sentences indicates this flag was not always used, and certain Class X offenses allow a life sentence independent of the habitual criminal enhancement.

² This flag is used frequently and the additional year of mandatory supervised release associated with a Class X instead of a Class 1 or 2 sentence also appears in the data, supporting the validity of this flag.

³ 12% are missing conviction information in CHRI that makes them eligible in the current law, so their status under the proposed law is unknown.

Table 1. Number of Class 1 or 2 Eligible Admissions FY2017-2019

	Admissions Eligible for Class X Sentencing Enhancement	
	Number of Admissions	Percent
Current Class 1 or 2 Sentenced as Class X	1,723	100%
Forcible felony <i>with</i> new required priors	304	18%
Forcible felony but <i>without</i> SB3072 priors	301	17%
Forcible felony but with missing priors	204	12%
Not forcible felony	914	53%

Table 2: Top Admitting Counties over the Past Three Years for Class 1 or 2 Admissions with a Class X Habitual Criminal Enhancement

County	Number	Percent
Cook	855	50%
Winnebago	78	5%
Will	71	4%
McLean	63	4%
Sangamon	60	4%
DuPage	48	3%
Macon	47	3%
LaSalle	40	2%
Champaign	38	2%
St. Clair	37	2%
Other	386	22%

Table 3: Race by Geographic Region over Past Three Years for Class 1 or 2 Admissions with a Class X Habitual Criminal Enhancement

	Cook	Collar	Urban	Rural	Percent
Black	695	121	279	86	69%
White	59	50	137	162	24%
Hispanic	98	14	8	10	9%
Other	3	0	1	0	0.2%
Total	50%	11%	25%	15%	100%

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