

REVISED ON APRIL 22, 2014¹
HB5708
RECLASSIFICATION & SENTENCING REDUCTIONS FOR CANNABIS OFFENSES
720 ILCS 550 SECTION 4

TOTAL COSTS AVOIDED OVER THREE YEARS: \$25,464,924
PETTY OFFENSE REVENUE OVER THREE YEARS: \$891,100

House Bill [5708](#) reclassifies Cannabis Control Act offenses as follows (*see chart on next page*):

- (1) Possession of less than 30 grams becomes a petty offense with a fine of \$100, and
- (2) Possession of 30 to 500 grams reclassified from a Class 4 felony to a Class A misdemeanor for the first offense.

This reclassification structure would result in fewer incarcerations overall and shorter sentences in the Illinois Department of Corrections (IDOC) for these offenses. Reclassifying misdemeanors to petty offenses would significantly reduce local government costs for pretrial detention, jail sentences, and probation supervision, as well as generate revenue from petty offense tickets.

SPAC used data from 2010, 2011, and 2012 for arrests, convictions, IDOC admissions, and probation sentences to identify the number of individuals charged with cannabis offenses in those years. Had HB5708 been in effect during these three years, state and local governments would have avoided costs of \$25 million and generated \$891,100 in revenue. By individual statute section, the costs avoided and added revenue are:

720 ILCS 550 Section:	Statute Description	Current costs	Costs under HB5708	Total Benefits*
4(a)	Possession Less Than 2.5 grams Cannabis	\$6,838,262	\$0	\$7,145,162
4(b)	Possession 2.5 to 10 grams Cannabis	\$7,044,261	\$0	\$7,367,561
4(c)	Possession 10 to 30 grams Cannabis	\$12,372,467	\$0	\$12,633,367
4(d)	Possession 30 to 500 grams Cannabis	\$6,938,326	\$7,728,392	-\$790,066
	TOTAL	\$33,193,316	\$7,728,392	\$26,356,024

* Total Benefits include costs that would have been avoided had the legislative proposal been in effect *and* revenues that would have been generated by petty offense fines.

Change in:	Dollar Benefits
Local Detention Benefits	\$3,811,011
Local Probation Benefits	\$20,408,703
Total Local Costs Avoided	\$24,219,714
State Prison Benefits	\$1,245,210
State Supervision Benefits	\$0
Total State Costs Avoided	\$1,245,210
Total Costs Avoided	\$25,464,924
Revenue	\$891,100
Total Benefits	\$26,356,024

In the chart above, the total benefits column includes both local and state costs, which are categorized in the table on the following page. This report explains each subsection's calculation on the pages 6-9.

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

¹ SPAC updated the cannabis analyses to correct the number of arrests for Cannabis Possession of between 2.5 and 10 grams and the number of withheld judgments with supervision requirements for Cannabis Possession of between 10 and 30 grams in Illinois from 2010 to 2012. The latter change increased the potential benefits in all three legislative proposals. The potential benefits increased because more offenders than originally identified would be removed from probation caseloads.

HB 5708 Changes in Sentence Classifications – petty offense fines are \$100

Cannabis Amounts		Possession 720 ILCS 550/4	
		Current Law	Proposed
1-2.5 grams (a)	First offense	<i>Class C</i>	<i>Petty Offense</i>
	Second or more offense		
2.5-10 grams (b)	First offense	<i>Class B</i>	<i>Petty Offense</i>
	Second or more offense		
10-30 grams (c)	First offense	<i>Class A</i>	<i>Petty Offense</i>
	Second or more offense	<i>Class 4</i>	
30-500 grams (d)	First offense	<i>Class 4</i>	<i>Class A</i>
	Second or more offense	<i>Class 3</i>	<i>Class 4</i>
500-2,000 grams (e)		<i>Class 3</i>	<i>Class 3</i>
2,000-5,000 grams (f)		<i>Class 2</i>	<i>Class 2</i>
Over 5,000 grams (g)		<i>Class 1</i>	<i>Class 1</i>

OUTCOMES: This analysis was prepared using the Illinois Results First approach. When fully populated with state criminal justice data on costs, system involvement, and programming, the Illinois Results First cost-benefit model will be capable of estimating the number of victimizations added or avoided through implementation of this proposal.² As a general proposition, incapacitation reduces the number of crimes committed while individuals are incarcerated; however, diversion, treatment, and educational programs can be highly effective in reducing recidivism. The increase in crime may therefore be offset by the benefits of increased access to programs and services that reduce recidivism. This would produce a possible positive multiplier effect that cannot easily be quantified.

METHODOLOGY: SPAC performed a retrospective analysis of data on arrests, convictions, and sentences for cannabis offenses in calendar years 2010, 2011, and 2012. This approach does not project future impact. SPAC’s calculation is the change in costs incurred by state and local governments had the legislative proposal been in effect for those years.

SPAC calculates and sets cost figures annually so that analyses are consistent over the legislative session. For IDOC, SPAC uses a marginal cost of \$5,961, the cost of adding one additional inmate, if the population impact is less than 800 inmates, the equivalent of a housing unit. If the population impact exceeds 800 inmates, SPAC will use the per capita cost of \$21,600, which accounts for the increased administrative and operational costs of obtaining and maintaining additional bed space.

² The Illinois Results First cost-benefit model is being developed with assistance from the Pew-MacArthur Results First initiative, a project of the Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation that works with states to implement an innovative cost-benefit analysis approach to state policy decision making.

For local costs, SPAC surveyed county jails on marginal costs. The responses provided a statewide average marginal jail cost of \$15,256 that 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. \$1,800 is the average of these annual costs.

To calculate the cost of public spending on these offenses for 2010 through 2012, SPAC used Criminal History Reporting Information (CHRI) and IDOC data on the number of arrests, convictions, admissions to prison and probation and the average length of stay in criminal justice facilities. During these three years, the data show:

Cannabis	Possession			Manufacture or Delivery			Other	Plant Production
	2010	2011	2012	2010	2011	2012	2010-2012	2010-2012
Arrests	49,050	44,615	41,423	4,413	4,101	4,010	3,650	1,269
Convictions	5,840	4,942	3,128	1,524	1,475	1,371	650	323
Probation	780	730	705	783	758	689	264	183
Withheld Judgments	3,242	2,717	1,746	355	347	325		
IDOC Admissions	253	215	243	452	426	396	180	39
Average Sentence Imposed	2.2 yrs	2.2 yrs	2.0 yrs	3.3 yrs	3.4 yrs	3.5 yrs	3.5 yrs	3.0 yrs
Average Prison Time Served	0.5 yrs	0.6 yrs	0.7 yrs	1.0 yrs	1.0 yrs	1.2 yrs	1.1 yrs	0.8 yrs
Average Pretrial Detention Period	0.2 yrs	0.3 yrs	0.3 yrs	0.3 yrs	0.3 yrs	0.3 yrs	0.3 yrs	0.2 yrs
Total time in custody (years)	0.7	0.9	1.0	1.3	1.3	1.5	1.4	1.0

Source: SPAC analysis of CHRI and IDOC data

NOTE: The differences in arrest, conviction and sentencing numbers reflect the effect of charging decisions, plea bargains, and trial outcomes. Many individuals arrested for these cannabis offenses have charges dropped without a guilty plea or trial. Other offenses receive “withheld judgments,” which occur when an offender pleads guilty and gets sentenced to 1410, 710, or TASC probation. If the offender successfully completes the probation the plea is vacated. If an offender is sentenced to court supervision, the judgment is not entered and the charges are dismissed at the end of the supervision term. In both cases the offender avoids a criminal conviction for that offense.

LIMITATIONS AND ASSUMPTIONS:

1. The analysis excludes the cost of state supervision during mandatory supervised release.
2. SPAC does not include the local costs for detaining offenders who are arrested but not convicted or given a withheld judgment.
3. The administrative costs of issuing tickets and collecting petty offense fines could not be determined due to data limitations.
4. For felonies that become misdemeanors under the proposal, SPAC assumes offenders will receive the maximum misdemeanor sentence length. If the sentences imposed are shorter, then SPAC's expected costs under the proposal may be higher than would actually be experienced.
5. 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 Cannabis Control Act. For the total number of offenders admitted to IDOC, SPAC counts offenders only under their most serious offense.
6. The capital costs of construction are not included.
7. Costs for criminal justice employees' health and pension benefits are not included because they are often not budget items for, or expenses seen by, individual agencies.

SPAC's *Fiscal Impact* figures may not match IDOC's *Fiscal Notes* for the following reasons:

1. IDOC projects forward ten years based on the past year's prison admissions. In contrast, SPAC analyzes the prior three years and calculates the costs that would have occurred had the proposed changes been the law. Both methods assume there are no additional offenders being sentenced and—consistent with criminology research—that changes in sanction lengths do not have a significant deterrent effect.
2. For population increases greater than 500 beds, IDOC accounts for construction costs associated with the increased space needed. Please note that “construction costs” reflect not only construction or repurposing of facility space, but also the higher operational costs required for providing additional beds over time.
3. SPAC determines annual cost estimates at the beginning of each year and uses these estimates in every analysis. This method allows for comparisons of bills throughout the legislative session terms.
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 administrative or space-management costs. SPAC uses this number because 800 beds equals one housing unit and four housing units make one prison.

**IMPACT OF PROPOSED LEGISLATION ON STATE PRISONS: \$1,245,210 costs avoided
over three years.**

Had this proposal been in place from 2010 through 2012, IDOC would have seen these reduced costs using the annual marginal cost of \$5,961 per inmate. This cost excludes IDOC post-release supervision costs and is due mainly to fewer Class 4 felony offenders entering prison.

IMPACT OF PROPOSED LEGISLATION ON COUNTY JAILS:

***\$3,811,011 costs avoided
over three years.***

Jails would see a change in their average daily population due to changes in the number of offenders detained and misdemeanor sentences that could include jail time. This reduction is offset somewhat by additional offenders shifting from felony prison sentences to misdemeanor county jail sentences. For this analysis, SPAC assumes that the average length of pretrial detention time is unchanged by this legislation. SPAC also assumes that individuals charged with petty offenses would not be subject to any detention.

- SPAC uses an estimated pretrial detention cost of \$15,256 per inmate per year.
- SPAC conservatively excludes the cost of detaining individuals arrested or charged but not convicted. Avoiding these detentions would result in additional cost savings for jails.

IMPACT OF LEGISLATION ON VICTIMS, PUBLIC SAFETY, AND COMMUNITIES: unknown.

Generally, a decrease in incarceration will result in an increase in crime. The extent of the increase depends on the future conduct of offenders not in custody. Evidenced-based programs for diversion, treatment, cognitive skills, and education can measurably reduce recidivism; therefore if resources are shifted from incarceration into those programs the recidivism reduction effect could offset any increase in crime. The balance between the benefits of reducing the use of incarceration, increasing access to evidence-based programming, and the costs of additional crime can be determined through the use of cost-benefit analysis. SPAC is developing the methodology to analyze these effects.

IMPACT OF LEGISLATION ON PROBATION:

***\$20,408,703 costs avoided
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 FY13. The costs avoided are due to currently probationable offenses being reclassified to a petty offense. This change in caseload does not signify a change in the need for probation officers to adequately supervise all offenders sentenced to probation.

IMPACT ON CANNABIS PETTY OFFENSE REVENUE:

***\$891,100 additional
revenue over three years.***

Had the legislation been in effect from 2010 to 2012, many individuals would have received \$100 fines resulting in annual revenues of \$297,033. SPAC estimated this revenue generated from 8,911 offenders and added it to total statewide benefits.

OTHER UNKNOWN IMPACTS OF PROPOSED LEGISLATION:

JUDICIAL SYSTEM. Petty offense processing would consume administrative resources. However, the additional administrative processing may be offset by fewer misdemeanor cases by courts. Due to the multitude of possibilities for implementing the administrative processing of the petty offense tickets, SPAC was unable to reliably estimate the size of these two effects.

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

Cannabis Possession For Less Than 2.5 Grams

**720 ILCS 550/4(a)
2010, 2011, and 2012**

Total Arrests	58,153
Total Convictions	3,674
Total Withheld Judgments	2,784

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 2010 to 2012
Current Cost	\$6,838,262
Proposed Cost	\$0
Petty Offense Revenue	\$306,900
Total Benefits	\$7,145,162

Sentences		Number of Offenders	Average Sentence Imposed (days)	Average Sentence Imposed (years)	Average Sentence Served (years)
		A	A / 365.25	L	
	Pretrial Detention	564	11	0.03	0.03
Probation	285	435	1.19	1.19	
Special Probation	2,784	435	1.19	1.19	
Jail Time	-	-	-	-	
IDOC Prison	-	-	-	-	

*Notes: SPAC was unable to identify local jail sentence terms for this statute.
Special probation refers to supervision with special conditions, such as 1410, 710, or TASC probation.*

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	0.03	564	\$459	\$259,133
Probation	\$1,800	1.19	3,069	\$2,144	\$6,579,129	
IDOC Prison	\$5,961	-	-	\$0	\$0	
IDOC Supervision	\$2,079	-	-	\$0	\$0	
Total				\$2,603	\$6,838,262	

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

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	\$0
Probation	\$1,800	-	-	\$0	\$0	
Jail Time	\$15,256	-	-	\$0	\$0	
IDOC Prison	\$5,961	-	-	\$0	\$0	
IDOC Supervision	\$2,079	-	-	\$0	\$0	
Petty Offense Fines	\$100	-	3,069	\$100	\$306,900	
Total				\$100	\$306,900	

Cannabis Possession 2.5 to 10 grams

720 ILCS 550/4(b)

2010, 2011, and 2012

Total Arrests	48,258
Total Convictions	4,654
Total Withheld Judgments	2,972

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 2010 to 2012
Current Cost	\$7,044,261
Proposed Cost	\$0
Petty Offense Revenue	\$323,300
Total Benefits	\$7,367,561

Sentences		Number of Offenders	Average Sentence Imposed (days)	Average Sentence Imposed (years)	Average Sentence Served (years)
			A	A / 365.25	L
	Pretrial Detention	817	15	0.04	0.04
Probation	261	410	1.12	1.12	
Special Probation	2,972	410	1.12	1.12	
Jail Time	-	-	-	-	
IDOC Prison	-	-	-	-	

Note: SPAC was unable to identify local jail sentence terms for this statute. Special probation refers to supervision with special conditions, such as 1410, 710, or TASC probation.

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	0.04	817	\$627	\$511,875
Local Supervision	\$1,800	1.12	3,233	\$2,021	\$6,532,386	
IDOC Prison	\$5,961	-	-	\$0	\$0	
IDOC Supervision	\$2,079	-	-	\$0	\$0	
Total				\$2,647	\$7,044,261	

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

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
Local Supervision	\$1,800	-	-	-	\$0	\$0
Jail Time	\$15,256	-	-	-	\$0	\$0
IDOC Prison	\$5,961	-	-	-	\$0	\$0
IDOC Supervision	\$2,079	-	-	-	\$0	\$0
Petty Offense Fines	\$100	-	-	3,233	\$100	\$323,300
Total					\$100	\$323,300

Cannabis Possession 10 to 30 grams

720 ILCS 550/4(c)

2010, 2011, and 2012

Total Arrests	19,005
Total Convictions	3,620
Total Withheld Judgments	1,873

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 2010 to 2012
Current Cost	\$12,372,467
Proposed Cost	\$0
Petty Offense Revenue	\$260,900
Total Benefits	\$12,633,367

Sentences		Number of Offenders	Average Sentence (days)	Average Sentence Imposed (years)	Average Sentence Served (years)
			A	A / 365.25	L
	Pretrial Detention	2,609	44	0.12	0.12
	Probation	624	593	1.62	1.62
	Special Probation	1,873	593	1.62	1.62
	Jail Time	-	-	-	-
	IDOC Prison	112	-	1.40	0.42

Note: Special probation refers to supervision with special conditions, such as 1410, 710, or TASC probation. Pretrial detention is calculated to include all offenders with probation or a prison sentence.

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	2,609	\$1,838	\$4,794,874
	Probation	\$1,800	1.62	2,497	\$2,922	\$7,297,188
	IDOC Prison	\$5,961	0.42	112	\$2,504	\$280,405
	IDOC Supervision	\$2,079	-	-	\$0	\$0
	Total				\$7,264	\$12,372,467

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

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	\$0
	Probation	\$1,800	-	-	\$0	\$0
	Jail Time	\$15,256	-	-	\$0	\$0
	IDOC Prison	\$5,961	-	-	\$0	\$0
	IDOC Supervision	\$2,079	-	-	\$0	\$0
	Petty Offense Fines	\$100	-	2,609	\$100	\$260,900
	Total				\$100	\$260,900

Cannabis Possession 30 to 500 grams
720 ILCS 550/4(d)
2010, 2011, and 2012

Total Arrests	7,284
Total Convictions	1,592
Total Withheld Judgments	218

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 2010 to 2012
Current Cost	\$6,938,326
Proposed Cost	\$7,728,392
Petty Offense Revenue	\$0
Total Benefits	-\$790,066

Sentences		Number of Offenders	Average Sentence (days)	Average Sentence Imposed (years)	Average Sentence Served (years)
			A	A / 365.25	L
	Pretrial Detention	811	53	0.15	0.15
Probation	856	730	2.00	2.00	
Special Probation	218	730	2.00	2.00	
Jail Time	-	-	-	-	
CLASS 4	IDOC Prison	407		1.50	0.44
CLASS 3	IDOC Prison	37		2.86	0.96

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

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	0.15	811	\$2,214	\$1,795,342
Probation	\$1,800	2.00	1,074	\$3,598	\$3,863,754	
CLASS 4	IDOC Prison	\$5,961	0.44	407	\$2,623	\$1,067,496
CLASS 3	IDOC Prison	\$5,961	0.96	37	\$5,723	\$211,735
	IDOC Supervision	\$2,079	-	-	\$0	\$0
Total					\$14,157	\$6,938,326

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	Current Number
	First Time Offender	73%	1,108	Probation	71%	1,074
	Second Offense	27%	410	Incarceration	29%	444
			Percent with Pretrial Detention	53%	811	

Note: Criminal history percentages calculated by SPAC from CHRI. Incarceration or probation percentages calculated by SPAC from the sentences imposed from 2010 to 2012.

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
		First Offense	Pretrial Detention	\$15,256	0.15	592
	Probation	\$1,800	2.00	784	\$3,598	\$2,820,540
	Jail Time	\$15,256	0.35	324	\$5,414	\$1,754,870
	IDOC Prison	\$5,961	-	-	\$0	\$0
	IDOC Supervision	\$2,079	-	-	\$0	\$0
	Petty Offense Fines	-	-	-	\$0	\$0
	Total				\$11,226	\$5,886,010
Second or Subsequent	Pretrial Detention	\$15,256	0.15	219	\$2,214	\$484,742
	Probation	\$1,800	2.00	290	\$3,598	\$1,043,213
	IDOC Prison	\$5,961	0.44	120	\$2,623	\$314,426
	IDOC Supervision	\$2,079	-	-	\$0	\$0
	Petty Offense Fines	-	-	-	\$0	\$0
	Total				\$8,434	\$1,842,382
TOTAL EFFECT					\$19,660	\$7,728,392

Note: For this Misdemeanor Class A offense, SPAC assumes all offenders who receive jail time get the maximum sentence length of one year, with day-for-day and pretrial detention credits reducing the length of stay.

For Class 4 offenses, SPAC estimated these offenders would receive the same length of stay as current 550/4(d) Class 4 offenders held by IDOC.

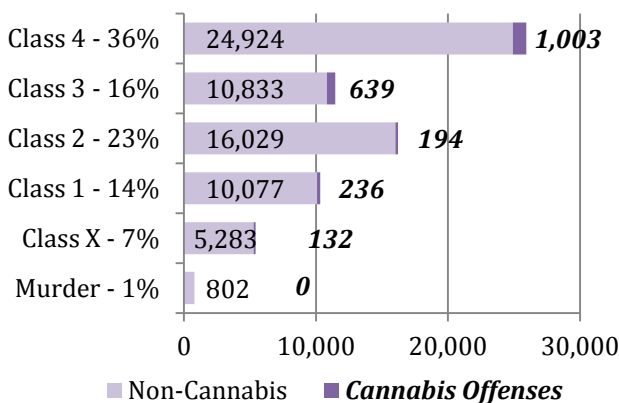
IDOC ADMISSIONS AND POPULATION FOR CANNABIS OFFENSES

These two charts illustrate the cannabis offender population housed by IDOC.

These charts illustrate the number of admissions and inmates held by IDOC by class. The charts show the number of cannabis offenders, which are a small percentage of the total admissions and incarcerated population. The charts illustrate that, while lower-level felonies account for a high number of admissions, they do not remain in the IDOC population long enough per conviction to be a driver of the total IDOC population. Offenders in this category may be processed into and out of IDOC more than once in a calendar year.

The population chart illustrates the composition of the IDOC population on June 30, 2012. The long-term population of Class 2 through Murder offenders comprises a much larger percentage of the inmates that are incarcerated for over one year. Offenders with longer sentences remain in IDOC and, even with few admissions, drive the population over time as illustrated by the fact that Class X felons account for only 7% of admissions in a year, but 24% of the population on a given day.

IDOC Admissions 2010-12, by felony class: 70,180 total admissions



IDOC Population on June 30, 2012, by felony class: 48,052 inmates

