

SPAC Non-Probationable Offense List

August 2021—Explanations and Limitations

In Illinois crimes that are not eligible for probation are subject to mandatory minimum prison sentences. Probation eligibility is eliminated in one of two ways, by adding an offense to the statutory list of non-probationable crimes in 730 ILCS 5/5-5-3 or by stating in the sentencing provision of an individual offense that a term of imprisonment shall be imposed. Over the years SPAC has been asked repeatedly if there was a comprehensive list of non-probationable offenses so SPAC has developed that list (Current as of 2021).

To identify non-probationable offenses, SPAC used the Code of Corrections (730 ILCS 5/5-5-3), the Criminal Code of 2012 (720 ILCS 5/1-1 et seq.), the Controlled Substances Act (720 ILCS 570/100 et seq.), the Methamphetamine Control and Community Protection Act, and the Vehicle Code to identify offenses for which probation is prohibited. These are the offenses to which mandatory minimum prison sentences apply.

SPAC created two different resources for consumers of this information, the SPAC Non-Probationable Offenses Abridged and SPAC Non-Probationable Offenses Detailed. The abridged version provides the relevant information in an easy to use format. This format includes the statute citation for the law that limits the use of probation, the description and statute citation of the offense, an indicator of whether or not that base citation includes multiple sections, and the minimum sentence that is authorized for the offense.

For the detailed offenses view, SPAC used as the basis for the list the Administrative Office of the Illinois Courts (AOIC) statute table, the most comprehensive data source for statute citations in Illinois. After manually identifying the appropriate statute citations, SPAC researchers joined the AOIC tables to the other relevant data sources used in Illinois: Criminal History Records Information (CHRI) and the Illinois Department of Corrections (DOC) data. This process resulted in a document that is universally applicable to AOIC, CHRI and DOC data to ensure consistent measurement across data sources.

The detailed offense view is an excel file that contains three distinct worksheets. Each of the worksheets were sourced from the Administrative Office of the Illinois Courts offense table, the Illinois Department of Corrections offense table and the Criminal History Records Information system. The files vary in length due to the different data sources. The AOIC Offense table, which includes 906 distinct AOIC Codes, is the largest of the worksheets.

The AOIC table includes:

- AOIC Code
- Non-Probationable Section
- Offense Class
- Description
- Effective Date
- Ineffective Date
- Chapter
- Act
- Section of the offense citation
- Crime Schedule
- Crime Category

The CHRI table has 672 distinct AOIC codes. The number of rows in the CHRI table is the result of certain offenses not having a conviction in CHRI. If there is no conviction for the offense in CHRI, the AOIC code is not included in the CHRI table, but still exists in the AOIC Table.

The CHRI table includes:

- AOIC Code
- Non-probationable Section
- Offense Class
- Statute Citation
- Illinois Uniform Crime Report Code
- Illinois Uniform Crime Report Code Description
- Illinois Uniform Crime Report Category
- Illinois Uniform Crime Report Category Description

The DOC table has 700 rows of data. Fewer rows in the DOC data than in the AOIC worksheet is a result of not yet having DOC admissions for certain offenses. If an offense is not an admitting offense, it does not appear in the DOC table, but like CHRI that AOIC code still exists in the AOIC table.

The DOC table includes:

- AOIC Code
- Offense Description
- Offense Class
- Statute Citation
- SPSS code

The DOC table is unique from the AOIC and CHRI tables, in the sense that an AOIC code may be duplicated in the DOC table. This duplication is a result of one AOIC code having multiple versions of DOC codes attached to it. The one-to-many relationship in the DOC table is the result of the restructuring of the Criminal Code in 2012. The reason that the duplicated AOIC codes are included is because if one was to do an analysis of the non-probationable people in the DOC population and only included the holding offense codes of the restructured statutes, it would have the potential to miss people who have been serving long term prison sentences and do not have a holding offense code that is associated with the restructured statute citations.

Limitations

Due to the language of the non-probationable statute, there are sections that SPAC could not accurately identify. See Table 1 below for the specific sections of the non-probationable statutes that could not be identified and the reason for the issues with identification.

Non-Probationable Section	Statutory Language	Reason for Identification Issue
730 ILCS 5/5-5-3(F)	A Class 1 or greater felony if the offender had been convicted of a Class 1 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 1 or greater felony) classified as a Class 1 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.	Section is dependent on individual characteristics of the offender, namely past 10 years of criminal history.
730 ILCS 5/5-5-3(F-3)	A Class 2 or greater felony sex offense or felony firearm offense if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Substance Use Disorder Act.	Section is dependent on individual characteristics of the offender, namely past 10 years of criminal history.
730 ILCS 5/5-5-3(J)	A forcible felony if the offense was related to the activities of an organized gang.	Section is dependent on individual characteristics of the offender, namely membership in an organized gang.
730 ILCS 5/5-5-3(L)	A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.	Section is dependent on individual and offense characteristics, namely the offender's prior criminal history and the underlying offense that has been committed.
730 ILCS 5/5-5-3(M)	A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.	Section is dependent on individual's characteristics namely their prior criminal history.

730 ILCS 5/5-5-3(Z)	A Class 1 felony committed while he or she was serving a term of probation or conditional discharge for a felony.	Section is dependent on the criminal justice status of the individual at the time of the offense.
730 ILCS 5/5-5-3(DD)	A conviction for aggravated assault under paragraph (6) of subsection (c) of Section 12-2 of the Criminal Code of 1961 or the Criminal Code of 2012 if the firearm is aimed toward the person against whom the firearm is being used.	Section is based on offense characteristics that are not clearly defined in statute.

Data Dictionary

Column / Variable	Source	Description
Administrative Office of the Illinois Courts		
AOIC Code	AOIC	Unique seven-digit code that is assigned by the Administrative Office of the Illinois Courts
Class	AOIC	The sentence class of the offense as defined in the Illinois Compiled Statutes.
DESC	AOIC	Provides a short offense description of the offense. May contain abbreviations due to limited space.
Effective Date (EFFDATE)	AOIC	Indicates the day on which the offense became effective. If the field is zeros then the offense was in effect at the time the original offense table was created.
Inactive Date (INADATE)	AOIC	Indicates the day on which the offense became ineffective. On the ineffective date, the offense has been eliminated, altered, or replaced by a new code. A zero/null value means the offense is still active. Inactive codes remain in the table for historical purposes.
CHAPTER	AOIC	Identifies the Chapter of the Illinois Compiled Statutes. Note that usual reporting of this field is <u>CCC ILCS ACT/Sections</u> .
ACT	AOIC	Identifies the chapter's Act of the Illinois Compiled Statutes. Note that usual reporting of this field is <u>CCC ILCS ACT/Sections</u> .
SECTION	AOIC	Identifies the act's Section(s) and Subsections of the Illinois Compiled Statutes. Note that usual reporting of this field is <u>CCC ILCS ACT/Sections</u> .
CRIMSCH	AOIC	Indicates which assessment schedule is associated with each offense, located in Section 15 of the Criminal and Traffic Assessment Act.
CRIMCAT	AOIC	Indicates which Category each Criminal Offenses fall into under the Code of Criminal Procedure of 1963 regarding bail.
Non_Probationable_Section	SPAC	Identifies the statutory authority excluding eligibility for probation sentences (i.e., mandatory minimums). Note that Class X offenses that are excluded by a second statute are listed under the second statute (i.e., attempted murder is a Class X felony but excluded by 730 ILCS 5/5-5-3(c)(2)(B)).

Illinois Department of Corrections		
Non_Probationable_Section	SPAC	Identifies the statutory authority excluding eligibility for probation sentences (i.e., mandatory minimums). Note that Class X offenses that are excluded by a second statute are listed under the second statute (i.e., attempted murder is a Class X felony but excluded by 730 ILCS 5/5-5-3(c)(2)(B)).
Offense Description	IDOC	Provides a brief description of the offense. May include abbreviations to shorten the length of the description.
Class	IDOC	The felony class for the offense.
Statute	IDOC	The Illinois Revised Statutes (IRS) or Illinois Compiled Statutes (ILCS) citation.
AOIC Code	IDOC	Unique seven-digit code that is assigned by the Administrative Office of the Illinois Courts
Inchoate	IDOC	Indicates offenses that are attempts, solicitation, or conspiracy to commit the offense. The crimes are charged as a lower felony class than the normal statutory citation.
SPSS_Code (sometimes HOFNSCD)	IDOC	Unique 4-digit code to identify the different offense/offense characteristics for which the individual was sentenced. The code was created for use in SPSS, a statistical analysis software package used by IDOC's Planning and Research Unit.
Illinois Criminal History Records Information		
AOIC Code	ISP	Unique seven-digit code that is assigned by the Administrative Office of the Illinois Courts
Non_Probationable_Section	SPAC	Identifies the statutory authority excluding eligibility for probation sentences (i.e., mandatory minimums). Note that Class X offenses that are excluded by a second statute are listed under the second statute (i.e., attempted murder is a Class X felony but excluded by 730 ILCS 5/5-5-3(c)(2)(B)).
Class (scoocooc)	ISP	The sentence class of the offense as defined in the Illinois Compiled Statutes.
Statute (CHRI)	ISP	The Illinois Revised Statutes (IRS) or Illinois Compiled Statutes (ILCS) citation.
UCRCode	ISP	Numeric code associated with the UCR crime description (UCRDesc).
UCRDesc	ISP	Describes the offense in the crime types set by the Uniform Crime Reporting (UCR) guidelines, which are nationally set definitions.
UCRCat	ISP	Numeric code associated with the UCR category description (UCRCatDesc).
UCRCatDesc	ISP	Categorizes the offenses into Uniform Crime Reporting (UCR) categories, which are nationally set categories.