



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1886

Introduced 2/10/2017, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

See Index

Amends the Cannabis Control Act, the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act. Reduces felony penalties for possession of cannabis, controlled substances, and methamphetamine to misdemeanors. Amends the Unified Code of Corrections. Provides that in the case of a person who is, at the time of the effective date of the amendatory Act, incarcerated for a felony offense under the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act that has been subsequently reclassified as a misdemeanor, the sentencing court, the Director of Corrections, or the incarcerated person may make a motion to recall the original sentence issued and re-sentence the person to a misdemeanor sentence. Creates the Justice Reinvestment Fund in the State treasury for: (1) addressing the destabilizing effects that high incarceration rates have had on families and communities; (2) targeting the community conditions that perpetuate the cycle of crime; (3) providing formerly incarcerated persons a better chance to succeed outside of prison; and (4) providing support to victims. Provides that on or before August 31, 2018, and on or before August 31 of the next 9 fiscal years thereafter, the Comptroller shall transfer from the General Revenue Fund to the Justice Reinvestment Fund 85% of the total savings calculated by the Sentencing Policy Advisory Council from the reduction of the prison population as a result of the reduced sentences provided by the amendatory Act. Amends the State Finance Act to make conforming changes.

LRB100 09338 RLC 19499 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.878 as follows:

6 (30 ILCS 105/5.878 new)

7 Sec. 5.878. The Justice Reinvestment Fund.

8 Section 10. The Cannabis Control Act is amended by changing
9 Section 4 as follows:

10 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

11 Sec. 4. It is unlawful for any person knowingly to possess
12 cannabis. Any person who violates this section with respect to:

13 (a) not more than 10 grams of any substance containing
14 cannabis is guilty of a civil law violation punishable by a
15 minimum fine of \$100 and a maximum fine of \$200. The
16 proceeds of the fine shall be payable to the clerk of the
17 circuit court. Within 30 days after the deposit of the
18 fine, the clerk shall distribute the proceeds of the fine
19 as follows:

20 (1) \$10 of the fine to the circuit clerk and \$10 of
21 the fine to the law enforcement agency that issued the

1 citation; the proceeds of each \$10 fine distributed to
2 the circuit clerk and each \$10 fine distributed to the
3 law enforcement agency that issued the citation for the
4 violation shall be used to defer the cost of automatic
5 expungements under paragraph (2.5) of subsection (a)
6 of Section 5.2 of the Criminal Identification Act;

7 (2) \$15 to the county to fund drug addiction
8 services;

9 (3) \$10 to the Office of the State's Attorneys
10 Appellate Prosecutor for use in training programs;

11 (4) \$10 to the State's Attorney; and

12 (5) any remainder of the fine to the law
13 enforcement agency that issued the citation for the
14 violation.

15 With respect to funds designated for the Department of
16 State Police, the moneys shall be remitted by the circuit
17 court clerk to the Department of State Police within one
18 month after receipt for deposit into the State Police
19 Operations Assistance Fund. With respect to funds
20 designated for the Department of Natural Resources, the
21 Department of Natural Resources shall deposit the moneys
22 into the Conservation Police Operations Assistance Fund;

23 (b) more than 10 grams but not more than 30 grams of
24 any substance containing cannabis is guilty of a Class B
25 misdemeanor;

26 (c) more than 30 grams ~~but not more than 100 grams~~ of

1 any substance containing cannabis is guilty of a Class A
2 misdemeanor.; ~~provided, that if any offense under this~~
3 ~~subsection (c) is a subsequent offense, the offender shall~~
4 ~~be guilty of a Class 4 felony;~~

5 (d) (blank); ~~more than 100 grams but not more than 500~~
6 ~~grams of any substance containing cannabis is guilty of a~~
7 ~~Class 4 felony; provided that if any offense under this~~
8 ~~subsection (d) is a subsequent offense, the offender shall~~
9 ~~be guilty of a Class 3 felony;~~

10 (e) (blank); ~~more than 500 grams but not more than~~
11 ~~2,000 grams of any substance containing cannabis is guilty~~
12 ~~of a Class 3 felony;~~

13 (f) (blank); ~~more than 2,000 grams but not more than~~
14 ~~5,000 grams of any substance containing cannabis is guilty~~
15 ~~of a Class 2 felony;~~

16 (g) (blank). ~~more than 5,000 grams of any substance~~
17 ~~containing cannabis is guilty of a Class 1 felony.~~

18 (Source: P.A. 99-697, eff. 7-29-16.)

19 Section 15. The Illinois Controlled Substances Act is
20 amended by changing Section 402 as follows:

21 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

22 Sec. 402. Except as otherwise authorized by this Act, it is
23 unlawful for any person knowingly to possess a controlled or
24 counterfeit substance or controlled substance analog. A

1 violation of this Act with respect to any ~~each of the~~
2 controlled substance ~~substances~~ listed herein constitutes a
3 single and separate violation of this Act. For purposes of this
4 Section, "controlled substance analog" or "analog" means a
5 substance, other than a controlled substance, that has a
6 chemical structure substantially similar to that of a
7 controlled substance in Schedule I or II, or that was
8 specifically designed to produce an effect substantially
9 similar to that of a controlled substance in Schedule I or II.
10 Examples of chemical classes in which controlled substance
11 analogs are found include, but are not limited to, the
12 following: phenethylamines, N-substituted piperidines,
13 morphinans, ecgonines, quinazolinones, substituted indoles,
14 and arylcycloalkylamines. For purposes of this Act, a
15 controlled substance analog shall be treated in the same manner
16 as the controlled substance to which it is substantially
17 similar.

18 (a) Any person who violates this Section with respect to
19 any controlled substance or counterfeit substance or
20 controlled substance analog, with the exception of
21 methamphetamine or an anabolic steroid, ~~with respect to the~~
22 ~~following controlled or counterfeit substances and amounts,~~
23 ~~notwithstanding any of the provisions of subsections (c) and~~
24 ~~(d) to the contrary,~~ is guilty of a Class A misdemeanor. ~~±~~
25 ~~felony and shall, if sentenced to a term of imprisonment, be~~
26 ~~sentenced as provided in this subsection (a) and fined as~~

1 ~~provided in subsection (b):~~

2 ~~(1) (A) not less than 4 years and not more than 15~~
3 ~~years with respect to 15 grams or more but less than~~
4 ~~100 grams of a substance containing heroin;~~

5 ~~(B) not less than 6 years and not more than 30~~
6 ~~years with respect to 100 grams or more but less than~~
7 ~~400 grams of a substance containing heroin;~~

8 ~~(C) not less than 8 years and not more than 40~~
9 ~~years with respect to 400 grams or more but less than~~
10 ~~900 grams of any substance containing heroin;~~

11 ~~(D) not less than 10 years and not more than 50~~
12 ~~years with respect to 900 grams or more of any~~
13 ~~substance containing heroin;~~

14 ~~(2) (A) not less than 4 years and not more than 15~~
15 ~~years with respect to 15 grams or more but less than~~
16 ~~100 grams of any substance containing cocaine;~~

17 ~~(B) not less than 6 years and not more than 30~~
18 ~~years with respect to 100 grams or more but less than~~
19 ~~400 grams of any substance containing cocaine;~~

20 ~~(C) not less than 8 years and not more than 40~~
21 ~~years with respect to 400 grams or more but less than~~
22 ~~900 grams of any substance containing cocaine;~~

23 ~~(D) not less than 10 years and not more than 50~~
24 ~~years with respect to 900 grams or more of any~~
25 ~~substance containing cocaine;~~

26 ~~(3) (A) not less than 4 years and not more than 15~~

1 ~~years with respect to 15 grams or more but less than~~
2 ~~100 grams of any substance containing morphine;~~

3 ~~(B) not less than 6 years and not more than 30~~
4 ~~years with respect to 100 grams or more but less than~~
5 ~~400 grams of any substance containing morphine;~~

6 ~~(C) not less than 6 years and not more than 40~~
7 ~~years with respect to 400 grams or more but less than~~
8 ~~900 grams of any substance containing morphine;~~

9 ~~(D) not less than 10 years and not more than 50~~
10 ~~years with respect to 900 grams or more of any~~
11 ~~substance containing morphine;~~

12 ~~(4) 200 grams or more of any substance containing~~
13 ~~peyote;~~

14 ~~(5) 200 grams or more of any substance containing a~~
15 ~~derivative of barbituric acid or any of the salts of a~~
16 ~~derivative of barbituric acid;~~

17 ~~(6) 200 grams or more of any substance containing~~
18 ~~amphetamine or any salt of an optical isomer of~~
19 ~~amphetamine;~~

20 ~~(6.5) (blank);~~

21 ~~(7) (A) not less than 4 years and not more than 15~~
22 ~~years with respect to: (i) 15 grams or more but less~~
23 ~~than 100 grams of any substance containing lysergie~~
24 ~~acid diethylamide (LSD), or an analog thereof, or (ii)~~
25 ~~15 or more objects or 15 or more segregated parts of an~~
26 ~~object or objects but less than 200 objects or 200~~

1 ~~segregated parts of an object or objects containing in~~
2 ~~them or having upon them any amount of any substance~~
3 ~~containing lysergic acid diethylamide (LSD), or an~~
4 ~~analog thereof;~~

5 ~~(B) not less than 6 years and not more than 30~~
6 ~~years with respect to: (i) 100 grams or more but less~~
7 ~~than 400 grams of any substance containing lysergic~~
8 ~~acid diethylamide (LSD), or an analog thereof, or (ii)~~
9 ~~200 or more objects or 200 or more segregated parts of~~
10 ~~an object or objects but less than 600 objects or less~~
11 ~~than 600 segregated parts of an object or objects~~
12 ~~containing in them or having upon them any amount of~~
13 ~~any substance containing lysergic acid diethylamide~~
14 ~~(LSD), or an analog thereof;~~

15 ~~(C) not less than 8 years and not more than 40~~
16 ~~years with respect to: (i) 400 grams or more but less~~
17 ~~than 900 grams of any substance containing lysergic~~
18 ~~acid diethylamide (LSD), or an analog thereof, or (ii)~~
19 ~~600 or more objects or 600 or more segregated parts of~~
20 ~~an object or objects but less than 1500 objects or 1500~~
21 ~~segregated parts of an object or objects containing in~~
22 ~~them or having upon them any amount of any substance~~
23 ~~containing lysergic acid diethylamide (LSD), or an~~
24 ~~analog thereof;~~

25 ~~(D) not less than 10 years and not more than 50~~
26 ~~years with respect to: (i) 900 grams or more of any~~

1 ~~substance containing lysergic acid diethylamide (LSD),~~
2 ~~or an analog thereof, or (ii) 1500 or more objects or~~
3 ~~1500 or more segregated parts of an object or objects~~
4 ~~containing in them or having upon them any amount of a~~
5 ~~substance containing lysergic acid diethylamide (LSD),~~
6 ~~or an analog thereof;~~

7 ~~(7.5) (A) not less than 4 years and not more than 15~~
8 ~~years with respect to: (i) 15 grams or more but less~~
9 ~~than 100 grams of any substance listed in paragraph~~
10 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
11 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
12 ~~Section 204, or an analog or derivative thereof, or~~
13 ~~(ii) 15 or more pills, tablets, caplets, capsules, or~~
14 ~~objects but less than 200 pills, tablets, caplets,~~
15 ~~capsules, or objects containing in them or having upon~~
16 ~~them any amount of any substance listed in paragraph~~
17 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
18 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
19 ~~Section 204, or an analog or derivative thereof;~~

20 ~~(B) not less than 6 years and not more than 30~~
21 ~~years with respect to: (i) 100 grams or more but less~~
22 ~~than 400 grams of any substance listed in paragraph~~
23 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
24 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
25 ~~Section 204, or an analog or derivative thereof, or~~
26 ~~(ii) 200 or more pills, tablets, caplets, capsules, or~~

1 ~~objects but less than 600 pills, tablets, caplets,~~
2 ~~capsules, or objects containing in them or having upon~~
3 ~~them any amount of any substance listed in paragraph~~
4 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
5 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
6 ~~Section 204, or an analog or derivative thereof;~~

7 ~~(C) not less than 8 years and not more than 40~~
8 ~~years with respect to: (i) 400 grams or more but less~~
9 ~~than 900 grams of any substance listed in paragraph~~
10 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
11 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
12 ~~Section 204, or an analog or derivative thereof, or~~
13 ~~(ii) 600 or more pills, tablets, caplets, capsules, or~~
14 ~~objects but less than 1,500 pills, tablets, caplets,~~
15 ~~capsules, or objects containing in them or having upon~~
16 ~~them any amount of any substance listed in paragraph~~
17 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
18 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
19 ~~Section 204, or an analog or derivative thereof;~~

20 ~~(D) not less than 10 years and not more than 50~~
21 ~~years with respect to: (i) 900 grams or more of any~~
22 ~~substance listed in paragraph (1), (2), (2.1), (2.2),~~
23 ~~(3), (14.1), (19), (20), (20.1), (21), (25), or (26) of~~
24 ~~subsection (d) of Section 204, or an analog or~~
25 ~~derivative thereof, or (ii) 1,500 or more pills,~~
26 ~~tablets, caplets, capsules, or objects containing in~~

1 ~~them or having upon them any amount of a substance~~
2 ~~listed in paragraph (1), (2), (2.1), (2.2), (3),~~
3 ~~(14.1), (19), (20), (20.1), (21), (25), or (26) of~~
4 ~~subsection (d) of Section 204, or an analog or~~
5 ~~derivative thereof;~~

6 ~~(8) 30 grams or more of any substance containing~~
7 ~~pentazocine or any of the salts, isomers and salts of~~
8 ~~isomers of pentazocine, or an analog thereof;~~

9 ~~(9) 30 grams or more of any substance containing~~
10 ~~methaqualone or any of the salts, isomers and salts of~~
11 ~~isomers of methaqualone;~~

12 ~~(10) 30 grams or more of any substance containing~~
13 ~~phencyclidine or any of the salts, isomers and salts of~~
14 ~~isomers of phencyclidine (PCP);~~

15 ~~(10.5) 30 grams or more of any substance containing~~
16 ~~ketamine or any of the salts, isomers and salts of isomers~~
17 ~~of ketamine;~~

18 ~~(11) 200 grams or more of any substance containing any~~
19 ~~substance classified as a narcotic drug in Schedules I or~~
20 ~~II, or an analog thereof, which is not otherwise included~~
21 ~~in this subsection.~~

22 (b) (Blank); ~~Any person sentenced with respect to~~
23 ~~violations of paragraph (1), (2), (3), (7), or (7.5) of~~
24 ~~subsection (a) involving 100 grams or more of the controlled~~
25 ~~substance named therein, may in addition to the penalties~~
26 ~~provided therein, be fined an amount not to exceed \$200,000 or~~

1 ~~the full street value of the controlled or counterfeit~~
2 ~~substances, whichever is greater. The term "street value" shall~~
3 ~~have the meaning ascribed in Section 110-5 of the Code of~~
4 ~~Criminal Procedure of 1963. Any person sentenced with respect~~
5 ~~to any other provision of subsection (a), may in addition to~~
6 ~~the penalties provided therein, be fined an amount not to~~
7 ~~exceed \$200,000.~~

8 (c) (Blank); ~~Any person who violates this Section with~~
9 ~~regard to an amount of a controlled substance other than~~
10 ~~methamphetamine or counterfeit substance not set forth in~~
11 ~~subsection (a) or (d) is guilty of a Class 4 felony. The fine~~
12 ~~for a violation punishable under this subsection (c) shall not~~
13 ~~be more than \$25,000.~~

14 (d) Any person who violates this Section with regard to any
15 amount of anabolic steroid is guilty of a Class C misdemeanor
16 for the first offense and a Class B misdemeanor for a
17 subsequent offense committed within 2 years of a prior
18 conviction.

19 (Source: P.A. 99-371, eff. 1-1-16.)

20 Section 20. The Methamphetamine Control and Community
21 Protection Act is amended by changing Section 60 as follows:

22 (720 ILCS 646/60)

23 Sec. 60. Methamphetamine possession.

24 (a) It is unlawful knowingly to possess methamphetamine or

1 a substance containing methamphetamine.

2 (b) A person who violates subsection (a) is guilty of a
3 Class A misdemeanor. ~~subject to the following penalties:~~

4 ~~(1) A person who possesses less than 5 grams of~~
5 ~~methamphetamine or a substance containing methamphetamine~~
6 ~~is guilty of a Class 3 felony.~~

7 ~~(2) A person who possesses 5 or more grams but less~~
8 ~~than 15 grams of methamphetamine or a substance containing~~
9 ~~methamphetamine is guilty of a Class 2 felony.~~

10 ~~(3) A person who possesses 15 or more grams but less~~
11 ~~than 100 grams of methamphetamine or a substance containing~~
12 ~~methamphetamine is guilty of a Class 1 felony.~~

13 ~~(4) A person who possesses 100 or more grams but less~~
14 ~~than 400 grams of methamphetamine or a substance containing~~
15 ~~methamphetamine is guilty of a Class X felony, subject to a~~
16 ~~term of imprisonment of not less than 6 years and not more~~
17 ~~than 30 years, and subject to a fine not to exceed~~
18 ~~\$100,000.~~

19 ~~(5) A person who possesses 400 or more grams but less~~
20 ~~than 900 grams of methamphetamine or a substance containing~~
21 ~~methamphetamine is guilty of a Class X felony, subject to a~~
22 ~~term of imprisonment of not less than 8 years and not more~~
23 ~~than 40 years, and subject to a fine not to exceed~~
24 ~~\$200,000.~~

25 ~~(6) A person who possesses 900 or more grams of~~
26 ~~methamphetamine or a substance containing methamphetamine~~

1 ~~is guilty of a Class X felony, subject to a term of~~
2 ~~imprisonment of not less than 10 years and not more than 50~~
3 ~~years, and subject to a fine not to exceed \$300,000.~~

4 (Source: P.A. 94-556, eff. 9-11-05.)

5 Section 25. The Unified Code of Corrections is amended by
6 adding Sections 5-4.5-110 and 5-8-9 as follows:

7 (730 ILCS 5/5-4.5-110 new)

8 Sec. 5-4.5-110. Resentencing as misdemeanants.

9 (a) In the case of a person who is facing criminal charges
10 for an offense committed prior to the effective date of this
11 amendatory Act of the 100th General Assembly that would have
12 qualified as a felony under the Cannabis Control Act, the
13 Illinois Controlled Substances Act, or the Methamphetamine
14 Control and Community Protection Act at the time it was
15 committed, but the person has not been sentenced by the time
16 this amendatory Act of the 100th General Assembly takes effect
17 and this amendatory Act of the 100th General Assembly
18 reclassifies the offense as a misdemeanor, the sentencing court
19 shall sentence the defendant based on the penalty changes made
20 by this amendatory Act of the 100th General Assembly in the
21 Cannabis Control Act, the Illinois Controlled Substances Act,
22 and the Methamphetamine Control and Community Protection Act.

23 (b) In the case of a person who is, at the time of the
24 effective date of this amendatory Act of the 100th General

1 Assembly, incarcerated for a felony offense under the Cannabis
2 Control Act, the Illinois Controlled Substances Act, or the
3 Methamphetamine Control and Community Protection Act that has
4 been subsequently reclassified as a misdemeanor, the
5 sentencing court, the Director of Corrections, or the
6 incarcerated person may make a motion to recall the original
7 sentence issued and re-sentence the person to a misdemeanor
8 under the penalty changes made by this amendatory Act of the
9 100th General Assembly in the Cannabis Control Act, the
10 Illinois Controlled Substances Act, and the Methamphetamine
11 Control and Community Protection Act. The sentencing court
12 shall determine whether the petitioner qualifies for
13 resentencing as a result of the reclassification of felony
14 offenses as misdemeanors by this amendatory Act of the 100th
15 General Assembly. If the petitioner qualifies for
16 resentencing, the petitioner's felony sentence shall be
17 recalled and the petitioner shall be re-sentenced to a
18 misdemeanor under the Cannabis Control Act, the Illinois
19 Controlled Substances Act, or the Methamphetamine Control and
20 Community Protection Act, under the penalty changes made by
21 this amendatory Act of the 100th General Assembly, unless the
22 court, in its discretion, determines that re-sentencing the
23 petitioner would pose an unreasonable risk of danger to public
24 safety. Under no circumstances shall re-sentencing result in a
25 sentence that is longer than the original sentence.

26 (c) In the case of a person who has completed his or her

1 sentence for a felony conviction under the Cannabis Control
2 Act, the Illinois Controlled Substances Act, or the
3 Methamphetamine Control and Community Protection Act that is
4 reclassified as a misdemeanor by this amendatory Act of the
5 100th General Assembly, he or she may apply to have the felony
6 conviction designated as a misdemeanor, or the sentencing court
7 or Director of Corrections may make a motion to have the felony
8 conviction designated as a misdemeanor. All sentencing courts
9 throughout this State shall provide applications for this
10 purpose. If the court finds that the felony conviction was for
11 an offense that has been reclassified as a misdemeanor by this
12 amendatory Act of the 100th General Assembly, the court shall
13 designate that the conviction was for a misdemeanor.

14 (d) If the original sentencing court is not available for
15 re-sentencing under subsections (b) and (c) of this Section,
16 the presiding judge shall designate another judge to rule on
17 the motion or application.

18 (e) Nothing in subsections (a) through (d) of this Section
19 is intended to diminish or abrogate any rights or remedies
20 otherwise available to the petitioner or applicant, or to any
21 victims of the crimes that resulted in the felony convictions
22 at issue.

23 (730 ILCS 5/5-8-9 new)

24 Sec. 5-8-9. Purpose.

25 (a) Purpose. From 1982 to 2013, Illinois' incarcerated

1 population nearly tripled, with much of the expansion caused by
2 the increased criminalization of public health concerns such as
3 the effects of poverty, mental illness, and drug use, and the
4 disproportionately aggressive enforcement of criminal laws
5 within communities of color. These trends resulted in justice
6 expenditures more than doubling, in real dollars, during this
7 period. The General Assembly hereby declares it a priority to
8 right-size our justice system and realign our spending
9 priorities to maximize public health and safety. Through the
10 creation of the Justice Reinvestment Fund in the State
11 treasury, a substantial portion of the savings realized from
12 reducing our incarceration rate, by re-classifying a series of
13 non-violent felony offenses as misdemeanors, will be
14 reinvested in addressing the root causes of crime, violence,
15 and recidivism. Among a wide range of positive effects, this
16 initiative will create substantially healthier and safer
17 communities across the State by:

18 (1) addressing the destabilizing effects that high
19 incarceration rates have had on families and communities;

20 (2) targeting the community conditions that perpetuate
21 the cycle of crime;

22 (3) providing formerly incarcerated persons a better
23 chance to succeed outside of prison; and

24 (4) providing support to victims.

25 (b) On or before July 31, 2018, and on or before July 31 of
26 the next 9 fiscal years thereafter, the Sentencing Policy

1 Advisory Council shall calculate the savings that accrued to
2 the State during the preceding fiscal year, as compared to the
3 fiscal year ending June 30, 2017, due to the re-classification
4 of felony offenses within the Cannabis Control Act, the
5 Illinois Controlled Substances Act, and the Methamphetamine
6 Control and Community Protection Act as misdemeanors by this
7 amendatory Act of the 100th General Assembly. The savings
8 calculation shall be solely based on:

9 (1) the number of persons incarcerated in a Department
10 of Corrections facility during the fiscal year ending June
11 30, 2017 for the offenses that have been reclassified as
12 misdemeanors by this amendatory Act of the 100th General
13 Assembly compared to the number of persons incarcerated for
14 those same offenses in a Department of Corrections facility
15 during the fiscal year for which the calculation is being
16 made;

17 (2) the average length of stay in Department of
18 Corrections facilities for these offenses before they were
19 reclassified as misdemeanors;

20 (3) the marginal cost per inmate per year; and

21 (4) any reduction in fixed costs, overhead costs, or
22 administrative costs due to the closing of a Department of
23 Corrections facility, or portion of a Department of
24 Corrections facility, as a result of this amendatory Act of
25 the 100th General Assembly.

26 In making the calculations required by this subsection (b),

1 the Sentencing Policy Advisory Council shall use actual data or
2 best available estimates when actual data is not available. The
3 calculations shall be final and shall not be adjusted for any
4 subsequent changes in the underlying data. The State
5 Comptroller shall certify the results of the calculation no
6 later than August 15 of each fiscal year.

7 (c) On or before August 31, 2018, and on or before August
8 31 of the next 9 fiscal years thereafter, the Comptroller shall
9 transfer from the General Revenue Fund to the Justice
10 Reinvestment Fund 85% of the total savings calculated under
11 subsection (b) of this Section minus any necessary deductions
12 under subsections (n) and (o) of this Section.

13 (d) Funds transferred to the Justice Reinvestment Fund
14 shall be used exclusively for the purposes of this Act and
15 shall not be subject to appropriation or transfer by the
16 General Assembly for any other purpose.

17 (e) On or before April 30, 2018, the Sentencing Policy
18 Advisory Council shall calculate, for each county in this
19 State, the 3-year average of the number of residents of that
20 county who were incarcerated within a State prison for felony
21 offenses in the Cannabis Control Act, the Illinois Controlled
22 Substances Act, and the Methamphetamine Control and Community
23 Protection Act that are re-classified as misdemeanors by this
24 amendatory Act of the 100th General Assembly. The 3-year
25 average shall be based on the fiscal years ending June 30,
26 2015; June 30, 2016; and June 30, 2017.

1 (f) On or before April 30, 2018, the Sentencing Policy
2 Advisory Council shall calculate, for the entire State, the
3 3-year average of the number of persons who were incarcerated
4 within a State prison for felony offenses in the Cannabis
5 Control Act, the Illinois Controlled Substances Act, and the
6 Methamphetamine Control and Community Protection Act that are
7 re-classified as misdemeanors by this amendatory Act of the
8 100th General Assembly. The 3-year average shall be based on
9 the fiscal years ending June 30, 2015; June 30, 2016; and June
10 30, 2017.

11 (g) The Justice Reinvestment Fund shall be jointly
12 administered by the Department of Human Services and the
13 Illinois Criminal Justice Information Authority, and each
14 county shall be entitled to a proportionate share of the annual
15 funds available provided it meets the criteria described in
16 subsection (h) of this Section. For the fiscal year ending on
17 June 30, 2018, each county's proportionate share shall be based
18 on their contribution to the total number of persons who have
19 pre-existing felony convictions at the time of enactment of
20 this amendatory Act of the 100th General Assembly that are
21 re-sentenced or designated as misdemeanors under Section
22 5-4.5-110 of this Code by June 30, 2018. For each fiscal year
23 thereafter, each county's share of available funds will be
24 determined by their 3-year average calculated in subsection (e)
25 of this Section as a percentage of the 3-year average for the
26 State calculated in subsection (f) of this Section.

1 (h) To receive funds under this Section, counties must meet
2 the following criteria:

3 (1) They must submit an annual application in which
4 they specify how they will use the funds to improve public
5 health and safety through investments in evidence-based or
6 promising strategies in one or more of the following areas:

7 (A) living-wage job opportunities;

8 (B) training programs for jobs that pay a living
9 wage;

10 (C) drug treatment services;

11 (D) mental health services, including trauma
12 recovery services for crime victims;

13 (E) afterschool programs for children and youth;

14 (F) pre-K programs;

15 (G) summer and year-round jobs for youth;

16 (H) affordable housing opportunities;

17 (I) community economic development projects and
18 the creation or support of cooperative businesses;

19 (J) alternatives to justice-system involvement
20 within schools and throughout the community, including
21 but not limited to restorative justice programs and
22 increased use of social workers, psychologists,
23 conflict mediators, mental health counselors, and drug
24 treatment counselors to address low-level offenses.

25 The application must specify how the funds will be
26 directed toward one or more of the following:

1 (A) the neighborhoods in the county that have the
2 largest number of former residents in jail or prison;

3 (B) the neighborhoods in the county that have the
4 largest number of crime victims;

5 (C) formerly incarcerated persons who are
6 re-entering the county from prison.

7 (i) In the event that this amendatory Act of the 100th
8 General Assembly results in a down-sizing of the State prison
9 system involving the discharge of any Department of Corrections
10 employees, the Department of Human Services and the Illinois
11 Criminal Justice Information Authority are authorized to
12 deduct funds from the Justice Reinvestment Fund for purposes of
13 assisting those discharged workers with transitional expenses
14 related to job training, community economic development,
15 education, and healthcare needs. The funds used for this
16 purpose shall not account for more than 1% of the total funds
17 deposited into the Justice Reinvestment Fund each year.

18 (j) Funds allocated to counties under this Section may be
19 used by counties for planning and administrative costs
20 associated with implementing the provisions of this amendatory
21 Act of the 100th General Assembly. Counties shall not use the
22 funds to supplant existing funds in the chosen programmatic
23 areas.

24 (k) Counties receiving funds shall submit an annual report
25 to the Department of Human Services and the Illinois Criminal
26 Justice Information Authority detailing the uses of the funds

1 and the impact they have had on public health and safety. The
2 Department of Human Services and the Illinois Criminal Justice
3 Information Authority shall assist counties in the filing of
4 their annual reports by providing a template for the reports,
5 including a listing of public health and safety metrics that
6 correspond to each potential area of investment in subsection
7 (h) of this Section. On an annual basis, the Department of
8 Human Services and the Illinois Criminal Justice Information
9 Authority shall provide a summary report to the Governor and
10 the General Assembly that details the statewide impact of the
11 Justice Reinvestment Fund on public health and safety. Counties
12 receiving less than \$50,000 from the Justice Reinvestment Fund
13 in a single year shall be exempt from this reporting
14 requirement that year.

15 (l) Funds left unclaimed due to a qualifying county failing
16 to submit an application or meet the specified criteria shall
17 be reallocated to the counties that, based on the determination
18 of the Department of Human Services and the Illinois Criminal
19 Justice Information Authority, have been most effective in
20 using their funds to improve public health and safety.

21 (m) The Comptroller shall annually conduct a randomized
22 audit of up to 10% of the counties receiving grants to ensure
23 the funds are disbursed and expended in accordance with the
24 requirements specified herein. The Comptroller shall report
25 his or her findings to the General Assembly and the public.

26 (n) Any costs incurred by the Comptroller and the

1 Sentencing Policy Advisory Council in connection with the
2 fulfillment of their duties described in this Section shall be
3 deducted from the Justice Reinvestment Fund before the funds
4 are disbursed under subsection (c) of this Section.

5 (o) Beginning with the fiscal year ending June 30, 2018,
6 the Sentencing Policy Advisory Council shall deduct any
7 additional costs incurred by the state court system in
8 fulfilling its duties under Section 5-4.5-110 of this Code
9 during the preceding year from the Justice Reinvestment Fund
10 before the funds are disbursed under subsection (c) of this
11 Section. The administrative costs shall not account for more
12 than 2% of the total funds to be deposited into the Justice
13 Reinvestment Fund for the fiscal year ending June 30, 2018, and
14 shall not account for more than 1% of the total funds to be
15 deposited into the Justice Reinvestment Fund for each fiscal
16 year thereafter.

17 (p) Any administrative costs incurred by the Department of
18 Human Services and the Illinois Criminal Justice Information
19 Authority in fulfilling its duties under this this amendatory
20 Act of the 100th General Assembly shall be deducted from the
21 available pool of funds. The administrative costs shall not
22 account for more than 5% of the total funds deposited into the
23 Justice Reinvestment Fund each year.

1 INDEX

2 Statutes amended in order of appearance

3 30 ILCS 105/5.878 new

4 720 ILCS 550/4 from Ch. 56 1/2, par. 704

5 720 ILCS 570/402 from Ch. 56 1/2, par. 1402

6 720 ILCS 646/60

7 730 ILCS 5/5-4.5-110 new

8 730 ILCS 5/5-8-9 new