



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3710

Introduced 2/10/2017, by Rep. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.878 new
730 ILCS 5/5-4.5-110 new
730 ILCS 5/5-8-9 new

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 11050 RLC 21289 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT 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 Unified Code of Corrections is amended by
9 adding Sections 5-4.5-110 and 5-8-9 as follows:

10 (730 ILCS 5/5-4.5-110 new)

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

12 (a) In the case of a person who is, at the time of the
13 effective date of this amendatory Act of the 100th General
14 Assembly, incarcerated for a felony offense under the Cannabis
15 Control Act, the Illinois Controlled Substances Act, or the
16 Methamphetamine Control and Community Protection Act that has
17 been subsequently reclassified as a misdemeanor, the
18 sentencing court, the Director of Corrections, or the
19 incarcerated person may make a motion to recall the original
20 sentence issued and re-sentence the person to a misdemeanor
21 under the penalty changes made by this amendatory Act of the

1 100th General Assembly in the Cannabis Control Act, the
2 Illinois Controlled Substances Act, and the Methamphetamine
3 Control and Community Protection Act. The sentencing court
4 shall determine whether the petitioner qualifies for
5 resentencing as a result of the reclassification of felony
6 offenses as misdemeanors. If the petitioner qualifies for
7 resentencing, the petitioner's felony sentence shall be
8 recalled and the petitioner shall be re-sentenced to a
9 misdemeanor under the Cannabis Control Act, the Illinois
10 Controlled Substances Act, or the Methamphetamine Control and
11 Community Protection Act, unless the court, in its discretion,
12 determines that re-sentencing the petitioner would pose an
13 unreasonable risk of danger to public safety. Under no
14 circumstances shall re-sentencing result in a sentence that is
15 longer than the original sentence.

16 (b) In the case of a person who has completed his or her
17 sentence for a felony conviction under the Cannabis Control
18 Act, the Illinois Controlled Substances Act, or the
19 Methamphetamine Control and Community Protection Act, he or she
20 may apply to have the felony conviction designated as a
21 misdemeanor, or the sentencing court or the Director of
22 Corrections may make a motion to have the felony conviction
23 designated as a misdemeanor. All sentencing courts throughout
24 this State shall provide applications for this purpose.

25 (c) If the original sentencing court is not available for
26 re-sentencing under subsections (b) and (c) of this Section,

1 the presiding judge shall designate another judge to rule on
2 the motion or application.

3 (d) Nothing in subsections (a) through (c) of this Section
4 is intended to diminish or abrogate any rights or remedies
5 otherwise available to the petitioner or applicant, or to any
6 victims of the crimes that resulted in the felony convictions
7 at issue.

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

9 Sec. 5-8-9. Purpose.

10 (a) Purpose. From 1982 to 2013, Illinois' incarcerated
11 population nearly tripled, with much of the expansion caused by
12 the increased criminalization of public health concerns such as
13 the effects of poverty, mental illness, and drug use, and the
14 disproportionately aggressive enforcement of criminal laws
15 within communities of color. These trends resulted in justice
16 expenditures more than doubling, in real dollars, during this
17 period. The General Assembly hereby declares it a priority to
18 right-size our justice system and realign our spending
19 priorities to maximize public health and safety. Through the
20 creation of the Justice Reinvestment Fund in the State
21 treasury, a substantial portion of the savings realized from
22 reducing our incarceration rate, by re-classifying a series of
23 non-violent felony offenses as misdemeanors, will be
24 reinvested in addressing the root causes of crime, violence,
25 and recidivism. Among a wide range of positive effects, this

1 initiative will create substantially healthier and safer
2 communities across the State by:

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

5 (2) targeting the community conditions that perpetuate
6 the cycle of crime;

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

9 (4) providing support to victims.

10 (b) On or before July 31, 2018, and on or before July 31 of
11 the next 9 fiscal years thereafter, the Sentencing Policy
12 Advisory Council shall calculate the savings that accrued to
13 the State during the preceding fiscal year, as compared to the
14 fiscal year ending June 30, 2017, due to criminal justice
15 reform efforts. The savings calculation shall be solely based
16 on:

17 (1) the number of persons incarcerated in a Department
18 of Corrections facility during the fiscal year ending June
19 30, 2017 for the offenses that have been reclassified as a
20 result of criminal justice reform efforts enacted into law
21 by the General Assembly;

22 (2) the average length of stay in Department of
23 Corrections facilities for these offenses before they were
24 reclassified as misdemeanors;

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

26 (4) any reduction in fixed costs, overhead costs, or

1 administrative costs.

2 In making the calculations required by this subsection (b),
3 the Sentencing Policy Advisory Council shall use actual data or
4 best available estimates when actual data is not available. The
5 State Comptroller shall certify the results of the calculation
6 no 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) The Justice Reinvestment Fund shall be jointly
14 administered by the Department of Human Services and the
15 Illinois Criminal Justice Information Authority, and each
16 county shall be entitled to a proportionate share of the annual
17 funds available provided it meets the criteria described in
18 subsection (f) of this Section.

19 (e) To receive funds under this Section, counties must meet
20 the following criteria:

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

25 (A) living-wage job opportunities;

26 (B) training programs for jobs that pay a living

- 1 wage;
- 2 (C) drug treatment services;
- 3 (D) mental health services, including trauma
4 recovery services for crime victims;
- 5 (E) afterschool programs for children and youth;
- 6 (F) pre-K programs;
- 7 (G) summer and year-round jobs for youth;
- 8 (H) affordable housing opportunities;
- 9 (I) community economic development projects and
10 the creation or support of cooperative businesses;
- 11 (J) alternatives to justice-system involvement
12 within schools and throughout the community, including
13 but not limited to restorative justice programs and
14 increased use of social workers, psychologists,
15 conflict mediators, mental health counselors, and drug
16 treatment counselors to address low-level offenses.
- 17 The application must specify how the funds will be
18 directed toward one or more of the following:
- 19 (A) the neighborhoods in the county that have the
20 largest number of former residents in jail or prison;
- 21 (B) the neighborhoods in the county that have the
22 largest number of crime victims;
- 23 (C) formerly incarcerated persons who are
24 re-entering the county from prison.
- 25 (f) In the event that this amendatory Act of the 100th
26 General Assembly results in a down-sizing of the State prison

1 system involving the discharge of any Department of Corrections
2 employees, the Department of Human Services and the Illinois
3 Criminal Justice Information Authority are authorized to
4 deduct funds from the Justice Reinvestment Fund for purposes of
5 assisting those discharged workers with transitional expenses
6 related to job training, community economic development,
7 education, and healthcare needs. The funds used for this
8 purpose shall not account for more than 1% of the total funds
9 deposited into the Justice Reinvestment Fund each year.

10 (g) Funds allocated to counties under this Section may be
11 used by counties for planning and administrative costs
12 associated with implementing the provisions of this amendatory
13 Act of the 100th General Assembly. Counties shall not use the
14 funds to supplant existing funds in the chosen programmatic
15 areas.

16 (h) Counties receiving funds shall submit an annual report
17 to the Department of Human Services and the Illinois Criminal
18 Justice Information Authority detailing the uses of the funds
19 and the impact they have had on public health and safety. The
20 Department of Human Services and the Illinois Criminal Justice
21 Information Authority shall assist counties in the filing of
22 their annual reports by providing a template for the reports,
23 including a listing of public health and safety metrics that
24 correspond to each potential area of investment in this
25 subsection (h). On an annual basis, the Department of Human
26 Services and the Illinois Criminal Justice Information

1 Authority shall provide a summary report to the Governor and
2 the General Assembly that details the statewide impact of the
3 Justice Reinvestment Fund on public health and safety.

4 (i) Funds left unclaimed due to a qualifying county failing
5 to submit an application or meet the specified criteria shall
6 be reallocated to the counties that, based on the determination
7 of the Department of Human Services and the Illinois Criminal
8 Justice Information Authority, have been most effective in
9 using their funds to improve public health and safety.

10 (j) The Comptroller shall annually conduct a randomized
11 audit of up to 10% of the counties receiving grants to ensure
12 the funds are disbursed and expended in accordance with the
13 requirements specified herein. The Comptroller shall report
14 his or her findings to the General Assembly and the public.

15 (k) Any costs incurred by the Comptroller and the
16 Sentencing Policy Advisory Council in connection with the
17 fulfillment of their duties described in this Section shall be
18 deducted from the Justice Reinvestment Fund before the funds
19 are disbursed under subsection (c) of this Section.

20 (l) Beginning with the fiscal year ending June 30, 2018,
21 the Sentencing Policy Advisory Council shall deduct any
22 additional costs incurred by the state court system in
23 fulfilling its duties under Section 5-4.5-110 of this Code
24 during the preceding year from the Justice Reinvestment Fund
25 before the funds are disbursed under subsection (c) of this
26 Section. The administrative costs shall not account for more

1 than 2% of the total funds to be deposited into the Justice
2 Reinvestment Fund for the fiscal year ending June 30, 2018, and
3 shall not account for more than 1% of the total funds to be
4 deposited into the Justice Reinvestment Fund for each fiscal
5 year thereafter.

6 (m) Any administrative costs incurred by the Department of
7 Human Services and the Illinois Criminal Justice Information
8 Authority in fulfilling its duties under this this amendatory
9 Act of the 100th General Assembly shall be deducted from the
10 available pool of funds. The administrative costs shall not
11 account for more than 5% of the total funds deposited into the
12 Justice Reinvestment Fund each year.