



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1615

Introduced 2/15/2019, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act. Creates the Justice Reinvestment Fund in the State treasury. Amends the Criminal Code of 2012. Increases the threshold amounts of value of the property involved that enhances a misdemeanor to a felony or to a greater felony to exceeding \$2,500 for theft, retail theft, deceptive practices, criminal damage to property, and criminal defacement of property. Amends the Cannabis Control Act. Provides that the knowing possession of more 10 grams of any substance containing cannabis is a Class A misdemeanor, Amends the Illinois Controlled Substances Act, and the Methamphetamine Control and Community Protection Act. Provides that the knowing possession of these substances, other than anabolic steroids, is a Class A misdemeanor. Amends the Unified Code of Corrections. Provides for the adjustment of sentences as misdemeanors if before the effective date of the amendatory Act these offenses were classified as felonies. Establishes procedures in which an offender sentenced as a felon for these offenses may petition to have his or her sentence reclassified as a misdemeanor. Provides that on or before July 31, 2020, and on or before July 31 of each fiscal year thereafter, the Illinois Sentencing Policy Advisory Council shall calculate the savings that accrued to the State during the fiscal year ending June 30, 2020, as compared to the fiscal year preceding the enactment of this amendatory Act, due to the re-classification of felony offenses as misdemeanors. Provides that on or before August 31, 2020, and before August 31 of each fiscal year thereafter, the Comptroller shall transfer from the General Fund to the Justice Reinvestment Fund 85% of the total savings calculated minus any necessary deductions. Makes other changes.

LRB101 08287 SLF 53354 b

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 5.891 as follows:

6 (30 ILCS 105/5.891 new)

7 Sec. 5.891. The Justice Reinvestment Fund.

8 Section 10. The Criminal Code of 2012 is amended by
9 changing Sections 16-1, 16-25, 17-1, 21-1, and 21-1.3 as
10 follows:

11 (720 ILCS 5/16-1) (from Ch. 38, par. 16-1)

12 Sec. 16-1. Theft.

13 (a) A person commits theft when he or she knowingly:

14 (1) Obtains or exerts unauthorized control over
15 property of the owner; or

16 (2) Obtains by deception control over property of the
17 owner; or

18 (3) Obtains by threat control over property of the
19 owner; or

20 (4) Obtains control over stolen property knowing the
21 property to have been stolen or under such circumstances as

1 would reasonably induce him or her to believe that the
2 property was stolen; or

3 (5) Obtains or exerts control over property in the
4 custody of any law enforcement agency which any law
5 enforcement officer or any individual acting in behalf of a
6 law enforcement agency explicitly represents to the person
7 as being stolen or represents to the person such
8 circumstances as would reasonably induce the person to
9 believe that the property was stolen, and

10 (A) Intends to deprive the owner permanently of the
11 use or benefit of the property; or

12 (B) Knowingly uses, conceals or abandons the
13 property in such manner as to deprive the owner
14 permanently of such use or benefit; or

15 (C) Uses, conceals, or abandons the property
16 knowing such use, concealment or abandonment probably
17 will deprive the owner permanently of such use or
18 benefit.

19 (b) Sentence.

20 (1) Theft of property ~~not from the person and~~ not
21 exceeding \$2,500 ~~\$500~~ in value is a Class A misdemeanor.

22 (1.1) (Blank). ~~Theft of property not from the person~~
23 ~~and not exceeding \$500 in value is a Class 4 felony if the~~
24 ~~theft was committed in a school or place of worship or if~~
25 ~~the theft was of governmental property.~~

26 (2) (Blank). ~~A person who has been convicted of theft~~

1 ~~of property not from the person and not exceeding \$500 in~~
2 ~~value who has been previously convicted of any type of~~
3 ~~theft, robbery, armed robbery, burglary, residential~~
4 ~~burglary, possession of burglary tools, home invasion,~~
5 ~~forgery, a violation of Section 4 103, 4 103.1, 4 103.2, or~~
6 ~~4 103.3 of the Illinois Vehicle Code relating to the~~
7 ~~possession of a stolen or converted motor vehicle, or a~~
8 ~~violation of Section 17 36 of the Criminal Code of 1961 or~~
9 ~~the Criminal Code of 2012, or Section 8 of the Illinois~~
10 ~~Credit Card and Debit Card Act is guilty of a Class 4~~
11 ~~felony.~~

12 (3) (Blank).

13 (4) Theft of property ~~from the person not~~ exceeding
14 \$2,500 ~~\$500~~ in value, ~~or theft of property exceeding \$500~~
15 and not exceeding \$10,000 in value, is a Class 3 felony.

16 (4.1) (Blank). ~~Theft of property from the person not~~
17 ~~exceeding \$500 in value, or theft of property exceeding~~
18 ~~\$500 and not exceeding \$10,000 in value, is a Class 2~~
19 ~~felony if the theft was committed in a school or place of~~
20 ~~worship or if the theft was of governmental property.~~

21 (5) Theft of property exceeding \$10,000 and not
22 exceeding \$100,000 in value is a Class 2 felony.

23 (5.1) (Blank). ~~Theft of property exceeding \$10,000 and~~
24 ~~not exceeding \$100,000 in value is a Class 1 felony if the~~
25 ~~theft was committed in a school or place of worship or if~~
26 ~~the theft was of governmental property.~~

1 (6) Theft of property exceeding \$100,000 and not
2 exceeding \$500,000 in value is a Class 1 felony.

3 (6.1) (Blank). ~~Theft of property exceeding \$100,000 in~~
4 ~~value is a Class X felony if the theft was committed in a~~
5 ~~school or place of worship or if the theft was of~~
6 ~~governmental property.~~

7 (6.2) Theft of property exceeding \$500,000 and not
8 exceeding \$1,000,000 in value is a Class 1
9 non-probationable felony.

10 (6.3) Theft of property exceeding \$1,000,000 in value
11 is a Class X felony.

12 (7) Theft by deception, as described by paragraph (2)
13 of subsection (a) of this Section, in which the offender
14 obtained money or property valued at \$5,000 or more from a
15 victim 60 years of age or older is a Class 2 felony.

16 (8) Theft by deception, as described by paragraph (2)
17 of subsection (a) of this Section, in which the offender
18 falsely poses as a landlord or agent or employee of the
19 landlord and obtains a rent payment or a security deposit
20 from a tenant is a Class 3 felony if the rent payment or
21 security deposit obtained does not exceed \$500.

22 (9) Theft by deception, as described by paragraph (2)
23 of subsection (a) of this Section, in which the offender
24 falsely poses as a landlord or agent or employee of the
25 landlord and obtains a rent payment or a security deposit
26 from a tenant is a Class 2 felony if the rent payment or

1 security deposit obtained exceeds \$500 and does not exceed
2 \$10,000.

3 (10) Theft by deception, as described by paragraph (2)
4 of subsection (a) of this Section, in which the offender
5 falsely poses as a landlord or agent or employee of the
6 landlord and obtains a rent payment or a security deposit
7 from a tenant is a Class 1 felony if the rent payment or
8 security deposit obtained exceeds \$10,000 and does not
9 exceed \$100,000.

10 (11) Theft by deception, as described by paragraph (2)
11 of subsection (a) of this Section, in which the offender
12 falsely poses as a landlord or agent or employee of the
13 landlord and obtains a rent payment or a security deposit
14 from a tenant is a Class X felony if the rent payment or
15 security deposit obtained exceeds \$100,000.

16 (c) When a charge of theft of property exceeding a
17 specified value is brought, the value of the property involved
18 is an element of the offense to be resolved by the trier of
19 fact as either exceeding or not exceeding the specified value.

20 (d) Theft by lessee; permissive inference. The trier of
21 fact may infer evidence that a person intends to deprive the
22 owner permanently of the use or benefit of the property (1) if
23 a lessee of the personal property of another fails to return it
24 to the owner within 10 days after written demand from the owner
25 for its return or (2) if a lessee of the personal property of
26 another fails to return it to the owner within 24 hours after

1 written demand from the owner for its return and the lessee had
2 presented identification to the owner that contained a
3 materially fictitious name, address, or telephone number. A
4 notice in writing, given after the expiration of the leasing
5 agreement, addressed and mailed, by registered mail, to the
6 lessee at the address given by him and shown on the leasing
7 agreement shall constitute proper demand.

8 (e) Permissive inference; evidence of intent that a person
9 obtains by deception control over property. The trier of fact
10 may infer that a person "knowingly obtains by deception control
11 over property of the owner" when he or she fails to return,
12 within 45 days after written demand from the owner, the
13 downpayment and any additional payments accepted under a
14 promise, oral or in writing, to perform services for the owner
15 for consideration of \$3,000 or more, and the promisor knowingly
16 without good cause failed to substantially perform pursuant to
17 the agreement after taking a down payment of 10% or more of the
18 agreed upon consideration. This provision shall not apply where
19 the owner initiated the suspension of performance under the
20 agreement, or where the promisor responds to the notice within
21 the 45-day notice period. A notice in writing, addressed and
22 mailed, by registered mail, to the promisor at the last known
23 address of the promisor, shall constitute proper demand.

24 (f) Offender's interest in the property.

25 (1) It is no defense to a charge of theft of property
26 that the offender has an interest therein, when the owner

1 also has an interest to which the offender is not entitled.

2 (2) Where the property involved is that of the
3 offender's spouse, no prosecution for theft may be
4 maintained unless the parties were not living together as
5 man and wife and were living in separate abodes at the time
6 of the alleged theft.

7 (Source: P.A. 96-496, eff. 1-1-10; 96-534, eff. 8-14-09;
8 96-1000, eff. 7-2-10; 96-1301, eff. 1-1-11; 96-1532, eff.
9 1-1-12; 96-1551, eff. 7-1-11; 97-597, eff. 1-1-12; 97-1150,
10 eff. 1-25-13.)

11 (720 ILCS 5/16-25)

12 Sec. 16-25. Retail theft.

13 (a) A person commits retail theft when he or she knowingly:

14 (1) Takes possession of, carries away, transfers or
15 causes to be carried away or transferred any merchandise
16 displayed, held, stored or offered for sale in a retail
17 mercantile establishment with the intention of retaining
18 such merchandise or with the intention of depriving the
19 merchant permanently of the possession, use or benefit of
20 such merchandise without paying the full retail value of
21 such merchandise; or

22 (2) Alters, transfers, or removes any label, price tag,
23 marking, indicia of value or any other markings which aid
24 in determining value affixed to any merchandise displayed,
25 held, stored or offered for sale in a retail mercantile

1 establishment and attempts to purchase such merchandise at
2 less than the full retail value with the intention of
3 depriving the merchant of the full retail value of such
4 merchandise; or

5 (3) Transfers any merchandise displayed, held, stored
6 or offered for sale in a retail mercantile establishment
7 from the container in or on which such merchandise is
8 displayed to any other container with the intention of
9 depriving the merchant of the full retail value of such
10 merchandise; or

11 (4) Under-rings with the intention of depriving the
12 merchant of the full retail value of the merchandise; or

13 (5) Removes a shopping cart from the premises of a
14 retail mercantile establishment without the consent of the
15 merchant given at the time of such removal with the
16 intention of depriving the merchant permanently of the
17 possession, use or benefit of such cart; or

18 (6) Represents to a merchant that he, she, or another
19 is the lawful owner of property, knowing that such
20 representation is false, and conveys or attempts to convey
21 that property to a merchant who is the owner of the
22 property in exchange for money, merchandise credit or other
23 property of the merchant; or

24 (7) Uses or possesses any theft detection shielding
25 device or theft detection device remover with the intention
26 of using such device to deprive the merchant permanently of

1 the possession, use or benefit of any merchandise
2 displayed, held, stored or offered for sale in a retail
3 mercantile establishment without paying the full retail
4 value of such merchandise; or

5 (8) Obtains or exerts unauthorized control over
6 property of the owner and thereby intends to deprive the
7 owner permanently of the use or benefit of the property
8 when a lessee of the personal property of another fails to
9 return it to the owner, or if the lessee fails to pay the
10 full retail value of such property to the lessor in
11 satisfaction of any contractual provision requiring such,
12 within 10 days after written demand from the owner for its
13 return. A notice in writing, given after the expiration of
14 the leasing agreement, by registered mail, to the lessee at
15 the address given by the lessee and shown on the leasing
16 agreement shall constitute proper demand.

17 (b) Theft by emergency exit. A person commits theft by
18 emergency exit when he or she commits a retail theft as defined
19 in subdivisions (a) (1) through (a) (8) of this Section and to
20 facilitate the theft he or she leaves the retail mercantile
21 establishment by use of a designated emergency exit.

22 (c) Permissive inference. If any person:

23 (1) conceals upon his or her person or among his or her
24 belongings unpurchased merchandise displayed, held, stored
25 or offered for sale in a retail mercantile establishment;
26 and

1 (2) removes that merchandise beyond the last known
2 station for receiving payments for that merchandise in that
3 retail mercantile establishment,
4 then the trier of fact may infer that the person possessed,
5 carried away or transferred such merchandise with the intention
6 of retaining it or with the intention of depriving the merchant
7 permanently of the possession, use or benefit of such
8 merchandise without paying the full retail value of such
9 merchandise.

10 To "conceal" merchandise means that, although there may be
11 some notice of its presence, that merchandise is not visible
12 through ordinary observation.

13 (d) Venue. Multiple thefts committed by the same person as
14 part of a continuing course of conduct in different
15 jurisdictions that have been aggregated in one jurisdiction may
16 be prosecuted in any jurisdiction in which one or more of the
17 thefts occurred.

18 (e) For the purposes of this Section, "theft detection
19 shielding device" means any laminated or coated bag or device
20 designed and intended to shield merchandise from detection by
21 an electronic or magnetic theft alarm sensor.

22 (f) Sentence.

23 (1) A violation of any of the subdivisions ~~(a)(1)~~
24 ~~through (a)(6) and (a)(8)~~ of this Section, the full retail
25 value of which does not exceed \$2,500 ~~\$300 for property~~
26 ~~other than motor fuel or \$150 for motor fuel~~, is a Class A

1 misdemeanor. ~~A violation of subdivision (a) (7) of this~~
2 ~~Section is a Class A misdemeanor for a first offense and a~~
3 ~~Class 4 felony for a second or subsequent offense. Theft by~~
4 ~~emergency exit of property, the full retail value of which~~
5 ~~does not exceed \$300, is a Class 4 felony.~~

6 (2) (Blank). ~~A person who has been convicted of retail~~
7 ~~theft of property under any of subdivisions (a) (1) through~~
8 ~~(a) (6) and (a) (8) of this Section, the full retail value of~~
9 ~~which does not exceed \$300 for property other than motor~~
10 ~~fuel or \$150 for motor fuel, and who has been previously~~
11 ~~convicted of any type of theft, robbery, armed robbery,~~
12 ~~burglary, residential burglary, possession of burglary~~
13 ~~tools, home invasion, unlawful use of a credit card, or~~
14 ~~forgery is guilty of a Class 4 felony. A person who has~~
15 ~~been convicted of theft by emergency exit of property, the~~
16 ~~full retail value of which does not exceed \$300, and who~~
17 ~~has been previously convicted of any type of theft,~~
18 ~~robbery, armed robbery, burglary, residential burglary,~~
19 ~~possession of burglary tools, home invasion, unlawful use~~
20 ~~of a credit card, or forgery is guilty of a Class 3 felony.~~

21 (3) Any retail theft of property under any of
22 subdivisions ~~(a) (1) through (a) (6) and (a) (8)~~ of this
23 Section, the full retail value of which exceeds \$2,500 ~~\$300~~
24 ~~for property other than motor fuel or \$150 for motor fuel~~
25 in a single transaction, or in separate transactions
26 committed by the same person as part of a continuing course

1 of conduct from one or more mercantile establishments over
2 a period of one year, is a Class 3 felony. ~~Theft by~~
3 ~~emergency exit of property, the full retail value of which~~
4 ~~exceeds \$300 in a single transaction, or in separate~~
5 ~~transactions committed by the same person as part of a~~
6 ~~continuing course of conduct from one or more mercantile~~
7 ~~establishments over a period of one year, is a Class 2~~
8 ~~felony.~~ When a charge of retail theft of property ~~or theft~~
9 ~~by emergency exit of property,~~ the full value of which
10 exceeds \$2,500 ~~\$300~~, is brought, the value of the property
11 involved is an element of the offense to be resolved by the
12 trier of fact as either exceeding or not exceeding \$2,500
13 ~~\$300~~.

14 (Source: P.A. 97-597, eff. 1-1-12.)

15 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)
16 Sec. 17-1. Deceptive practices.

17 (A) General deception.

18 A person commits a deceptive practice when, with intent to
19 defraud, the person does any of the following:

20 (1) He or she knowingly causes another, by deception or
21 threat, to execute a document disposing of property or a
22 document by which a pecuniary obligation is incurred.

23 (2) Being an officer, manager or other person
24 participating in the direction of a financial institution,

1 he or she knowingly receives or permits the receipt of a
2 deposit or other investment, knowing that the institution
3 is insolvent.

4 (3) He or she knowingly makes a false or deceptive
5 statement addressed to the public for the purpose of
6 promoting the sale of property or services.

7 (B) Bad checks.

8 A person commits a deceptive practice when:

9 (1) With intent to obtain control over property or to
10 pay for property, labor or services of another, or in
11 satisfaction of an obligation for payment of tax under the
12 Retailers' Occupation Tax Act or any other tax due to the
13 State of Illinois, he or she issues or delivers a check or
14 other order upon a real or fictitious depository for the
15 payment of money, knowing that it will not be paid by the
16 depository. The trier of fact may infer that the defendant
17 knows that the check or other order will not be paid by the
18 depository and that the defendant has acted with intent to
19 defraud when the defendant fails to have sufficient funds
20 or credit with the depository when the check or other order
21 is issued or delivered, or when such check or other order
22 is presented for payment and dishonored on each of 2
23 occasions at least 7 days apart. In this paragraph (B) (1),
24 "property" includes rental property (real or personal).

25 (2) He or she issues or delivers a check or other order

1 upon a real or fictitious depository in an amount exceeding
2 \$150 in payment of an amount owed on any credit transaction
3 for property, labor or services, or in payment of the
4 entire amount owed on any credit transaction for property,
5 labor or services, knowing that it will not be paid by the
6 depository, and thereafter fails to provide funds or credit
7 with the depository in the face amount of the check or
8 order within 7 days of receiving actual notice from the
9 depository or payee of the dishonor of the check or order.

10 (C) Bank-related fraud.

11 (1) False statement.

12 A person commits false statement bank fraud if he or she,
13 with intent to defraud, makes or causes to be made any false
14 statement in writing in order to obtain an account with a bank
15 or other financial institution, or to obtain credit from a bank
16 or other financial institution, or to obtain services from a
17 currency exchange, knowing such writing to be false, and with
18 the intent that it be relied upon.

19 For purposes of this subsection (C), a false statement
20 means any false statement representing identity, address, or
21 employment, or the identity, address, or employment of any
22 person, firm, or corporation.

23 (2) Possession of stolen or fraudulently obtained checks.

24 A person commits possession of stolen or fraudulently
25 obtained checks when he or she possesses, with the intent to

1 obtain access to funds of another person held in a real or
2 fictitious deposit account at a financial institution, makes a
3 false statement or a misrepresentation to the financial
4 institution, or possesses, transfers, negotiates, or presents
5 for payment a check, draft, or other item purported to direct
6 the financial institution to withdraw or pay funds out of the
7 account holder's deposit account with knowledge that such
8 possession, transfer, negotiation, or presentment is not
9 authorized by the account holder or the issuing financial
10 institution. A person shall be deemed to have been authorized
11 to possess, transfer, negotiate, or present for payment such
12 item if the person was otherwise entitled by law to withdraw or
13 recover funds from the account in question and followed the
14 requisite procedures under the law. If the account holder, upon
15 discovery of the withdrawal or payment, claims that the
16 withdrawal or payment was not authorized, the financial
17 institution may require the account holder to submit an
18 affidavit to that effect on a form satisfactory to the
19 financial institution before the financial institution may be
20 required to credit the account in an amount equal to the amount
21 or amounts that were withdrawn or paid without authorization.

22 (3) Possession of implements of check fraud.

23 A person commits possession of implements of check fraud
24 when he or she possesses, with the intent to defraud and
25 without the authority of the account holder or financial
26 institution, any check imprinter, signature imprinter, or

1 "certified" stamp.

2 (D) Sentence.

3 (1) The commission of a deceptive practice in violation
4 of this Section, except as otherwise provided by this
5 subsection (D), is a Class A misdemeanor.

6 (2) For purposes of paragraphs (A) (1) and (B) (1):

7 (a) The commission of a deceptive practice in
8 violation of paragraph (A) (1) or (B) (1), when the value
9 of the property so obtained, in a single transaction or
10 in separate transactions within a 90-day period,
11 exceeds \$2,500 ~~\$150~~, is a Class 4 felony. In the case
12 of a prosecution for separate transactions totaling
13 more than \$2,500 ~~\$150~~ within a 90-day period, those
14 separate transactions shall be alleged in a single
15 charge and prosecuted in a single prosecution.

16 (b) (Blank). ~~The commission of a deceptive~~
17 ~~practice in violation of paragraph (B) (1) a second or~~
18 ~~subsequent time is a Class 4 felony.~~

19 (3) (Blank). ~~For purposes of paragraph (C) (2), a person~~
20 ~~who, within any 12 month period, violates paragraph (C) (2)~~
21 ~~with respect to 3 or more checks or orders for the payment~~
22 ~~of money at the same time or consecutively, each the~~
23 ~~property of a different account holder or financial~~
24 ~~institution, is guilty of a Class 4 felony.~~

25 (4) (Blank). ~~For purposes of paragraph (C) (3), a person~~

1 ~~who within any 12-month period violates paragraph (C) (3) as~~
2 ~~to possession of 3 or more such devices at the same time or~~
3 ~~consecutively is guilty of a Class 4 felony.~~

4 (E) Civil liability. A person who issues a check or order
5 to a payee in violation of paragraph (B) (1) and who fails to
6 pay the amount of the check or order to the payee within 30
7 days following either delivery and acceptance by the addressee
8 of a written demand both by certified mail and by first class
9 mail to the person's last known address or attempted delivery
10 of a written demand sent both by certified mail and by first
11 class mail to the person's last known address and the demand by
12 certified mail is returned to the sender with a notation that
13 delivery was refused or unclaimed shall be liable to the payee
14 or a person subrogated to the rights of the payee for, in
15 addition to the amount owing upon such check or order, damages
16 of treble the amount so owing, but in no case less than \$100
17 nor more than \$1,500, plus attorney's fees and court costs. An
18 action under this subsection (E) may be brought in small claims
19 court or in any other appropriate court. As part of the written
20 demand required by this subsection (E), the plaintiff shall
21 provide written notice to the defendant of the fact that prior
22 to the hearing of any action under this subsection (E), the
23 defendant may tender to the plaintiff and the plaintiff shall
24 accept, as satisfaction of the claim, an amount of money equal
25 to the sum of the amount of the check and the incurred court

1 costs, including the cost of service of process, and attorney's
2 fees.

3 (Source: P.A. 96-1432, eff. 1-1-11; 96-1551, eff. 7-1-11.)

4 (720 ILCS 5/21-1) (from Ch. 38, par. 21-1)

5 Sec. 21-1. Criminal damage to property.

6 (a) A person commits criminal damage to property when he or
7 she:

8 (1) knowingly damages any property of another;

9 (2) recklessly by means of fire or explosive damages
10 property of another;

11 (3) knowingly starts a fire on the land of another;

12 (4) knowingly injures a domestic animal of another
13 without his or her consent;

14 (5) knowingly deposits on the land or in the building
15 of another any stink bomb or any offensive smelling
16 compound and thereby intends to interfere with the use by
17 another of the land or building;

18 (6) knowingly damages any property, other than as
19 described in paragraph (2) of subsection (a) of Section
20 20-1, with intent to defraud an insurer;

21 (7) knowingly shoots a firearm at any portion of a
22 railroad train;

23 (8) knowingly, without proper authorization, cuts,
24 injures, damages, defaces, destroys, or tampers with any
25 fire hydrant or any public or private fire fighting

1 equipment, or any apparatus appertaining to fire fighting
2 equipment; or

3 (9) intentionally, without proper authorization, opens
4 any fire hydrant.

5 (b) When the charge of criminal damage to property
6 exceeding a specified value is brought, the extent of the
7 damage is an element of the offense to be resolved by the trier
8 of fact as either exceeding or not exceeding the specified
9 value.

10 (c) It is an affirmative defense to a violation of
11 paragraph (1), (3), or (5) of subsection (a) of this Section
12 that the owner of the property or land damaged consented to the
13 damage.

14 (d) Sentence.

15 (1) A violation of subsection (a) shall have the
16 following penalties:

17 (A) A violation of paragraph (8) or (9) is a Class
18 B misdemeanor.

19 (B) A violation of paragraph (1), (2), (3), (5), or
20 (6) is a Class A misdemeanor when the damage to
21 property does not exceed \$2,500 ~~\$500~~.

22 (C) (Blank). ~~A violation of paragraph (1), (2),~~
23 ~~(3), (5), or (6) is a Class 4 felony when the damage to~~
24 ~~property does not exceed \$500 and the damage occurs to~~
25 ~~property of a school or place of worship or to farm~~
26 ~~equipment or immovable items of agricultural~~

1 ~~production, including but not limited to grain~~
2 ~~elevators, grain bins, and barns or property which~~
3 ~~memorializes or honors an individual or group of police~~
4 ~~officers, fire fighters, members of the United States~~
5 ~~Armed Forces, National Guard, or veterans.~~

6 (D) A violation of paragraph (4) is a Class A
7 misdemeanor ~~4 felony~~ when the damage to property does
8 not exceed \$10,000.

9 (E) A violation of paragraph (7) is a Class A
10 misdemeanor ~~4 felony~~.

11 (F) A violation of paragraph (1), (2), (3), (5) or
12 (6) is a Class 4 felony when the damage to property
13 exceeds \$2,500 ~~\$500~~ but does not exceed \$10,000.

14 (G) (Blank). ~~A violation of paragraphs (1) through~~
15 ~~(6) is a Class 3 felony when the damage to property~~
16 ~~exceeds \$500 but does not exceed \$10,000 and the damage~~
17 ~~occurs to property of a school or place of worship or~~
18 ~~to farm equipment or immovable items of agricultural~~
19 ~~production, including but not limited to grain~~
20 ~~elevators, grain bins, and barns or property which~~
21 ~~memorializes or honors an individual or group of police~~
22 ~~officers, fire fighters, members of the United States~~
23 ~~Armed Forces, National Guard, or veterans.~~

24 (H) A violation of paragraphs (1) through (6) is a
25 Class 3 felony when the damage to property exceeds
26 \$10,000 but does not exceed \$100,000.

1 (I) (Blank). ~~A violation of paragraphs (1) through~~
2 ~~(6) is a Class 2 felony when the damage to property~~
3 ~~exceeds \$10,000 but does not exceed \$100,000 and the~~
4 ~~damage occurs to property of a school or place of~~
5 ~~worship or to farm equipment or immovable items of~~
6 ~~agricultural production, including but not limited to~~
7 ~~grain elevators, grain bins, and barns or property~~
8 ~~which memorializes or honors an individual or group of~~
9 ~~police officers, fire fighters, members of the United~~
10 ~~States Armed Forces, National Guard, or veterans.~~

11 (J) A violation of paragraphs (1) through (6) is a
12 Class 2 felony when the damage to property exceeds
13 \$100,000. ~~A violation of paragraphs (1) through (6) is~~
14 ~~a Class 1 felony when the damage to property exceeds~~
15 ~~\$100,000 and the damage occurs to property of a school~~
16 ~~or place of worship or to farm equipment or immovable~~
17 ~~items of agricultural production, including but not~~
18 ~~limited to grain elevators, grain bins, and barns or~~
19 ~~property which memorializes or honors an individual or~~
20 ~~group of police officers, fire fighters, members of the~~
21 ~~United States Armed Forces, National Guard, or~~
22 ~~veterans.~~

23 (2) When the damage to property exceeds \$10,000, the
24 court shall impose upon the offender a fine equal to the
25 value of the damages to the property.

26 (3) In addition to any other sentence that may be

1 imposed, a court shall order any person convicted of
2 criminal damage to property to perform community service
3 for not less than 30 and not more than 120 hours, if
4 community service is available in the jurisdiction and is
5 funded and approved by the county board of the county where
6 the offense was committed. In addition, whenever any person
7 is placed on supervision for an alleged offense under this
8 Section, the supervision shall be conditioned upon the
9 performance of the community service.

10 The community service requirement does not apply when
11 the court imposes a sentence of incarceration.

12 (4) In addition to any criminal penalties imposed for a
13 violation of this Section, if a person is convicted of or
14 placed on supervision for knowingly damaging or destroying
15 crops of another, including crops intended for personal,
16 commercial, research, or developmental purposes, the
17 person is liable in a civil action to the owner of any
18 crops damaged or destroyed for money damages up to twice
19 the market value of the crops damaged or destroyed.

20 (5) For the purposes of this subsection (d), "farm
21 equipment" means machinery or other equipment used in
22 farming.

23 (Source: P.A. 98-315, eff. 1-1-14; 99-631, eff. 1-1-17.)

24 (720 ILCS 5/21-1.3)

25 Sec. 21-1.3. Criminal defacement of property.

1 (a) A person commits criminal defacement of property when
2 the person knowingly damages the property of another by
3 defacing, deforming, or otherwise damaging the property by the
4 use of paint or any other similar substance, or by the use of a
5 writing instrument, etching tool, or any other similar device.
6 It is an affirmative defense to a violation of this Section
7 that the owner of the property damaged consented to such
8 damage.

9 (b) Sentence.

10 (1) Criminal defacement of property is a Class A
11 misdemeanor ~~for a first offense~~ when the aggregate value of the
12 damage to the property does not exceed \$2,500 ~~\$500~~. ~~Criminal~~
13 ~~defacement of property is a Class 4 felony when the aggregate~~
14 ~~value of the damage to property does not exceed \$500 and the~~
15 ~~property damaged is a school building or place of worship or~~
16 ~~property which memorializes or honors an individual or group of~~
17 ~~police officers, fire fighters, members of the United States~~
18 ~~Armed Forces or National Guard, or veterans.~~ Criminal
19 defacement of property is a Class 4 felony ~~for a second or~~
20 ~~subsequent conviction or~~ when the aggregate value of the damage
21 to the property exceeds \$2,500 ~~\$500~~. ~~Criminal defacement of~~
22 ~~property is a Class 3 felony when the aggregate value of the~~
23 ~~damage to property exceeds \$500 and the property damaged is a~~
24 ~~school building or place of worship or property which~~
25 ~~memorializes or honors an individual or group of police~~
26 ~~officers, fire fighters, members of the United States Armed~~

1 ~~Forces or National Guard, or veterans.~~

2 (2) In addition to any other sentence that may be imposed
3 for a violation of this Section, a person convicted of criminal
4 defacement of property shall:

5 (A) pay the actual costs incurred by the property owner
6 or the unit of government to abate, remediate, repair, or
7 remove the effect of the damage to the property. To the
8 extent permitted by law, reimbursement for the costs of
9 abatement, remediation, repair, or removal shall be
10 payable to the person who incurred the costs; and

11 (B) (blank). ~~if convicted of criminal defacement of~~
12 ~~property that is chargeable as a Class 3 or Class 4 felony,~~
13 ~~pay a mandatory minimum fine of \$500.~~

14 (3) In addition to any other sentence that may be imposed,
15 a court shall order any person convicted of criminal defacement
16 of property to perform community service for not less than 30
17 and not more than 120 hours, if community service is available
18 in the jurisdiction. The community service shall include, but
19 need not be limited to, the cleanup and repair of the damage to
20 property that was caused by the offense, or similar damage to
21 property located in the municipality or county in which the
22 offense occurred. When the property damaged is a school
23 building, the community service may include cleanup, removal,
24 or painting over the defacement. In addition, whenever any
25 person is placed on supervision for an alleged offense under
26 this Section, the supervision shall be conditioned upon the

1 performance of the community service.

2 (4) For the purposes of this subsection (b), aggregate
3 value shall be determined by adding the value of the damage to
4 one or more properties if the offenses were committed as part
5 of a single course of conduct.

6 (Source: P.A. 98-315, eff. 1-1-14; 98-466, eff. 8-16-13;
7 98-756, eff. 7-16-14; 99-631, eff. 1-1-17.)

8 Section 15. 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
22 citation; the proceeds of each \$10 fine distributed to
23 the circuit clerk and each \$10 fine distributed to the
24 law enforcement agency that issued the citation for the

1 violation shall be used to defer the cost of automatic
2 expungements under paragraph (2.5) of subsection (a)
3 of Section 5.2 of the Criminal Identification Act;

4 (2) \$15 to the county to fund drug addiction
5 services;

6 (3) \$10 to the Office of the State's Attorneys
7 Appellate Prosecutor for use in training programs;

8 (4) \$10 to the State's Attorney; and

9 (5) any remainder of the fine to the law
10 enforcement agency that issued the citation for the
11 violation.

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

20 (b) more than 10 grams but not more than 30 grams of
21 any substance containing cannabis is guilty of a Class B
22 misdemeanor;

23 (c) more than 30 grams but not more than 100 grams of
24 any substance containing cannabis is guilty of a Class A
25 misdemeanor; provided, that if any offense under this
26 subsection (c) is a subsequent offense, the offender shall

1 be guilty of a Class 4 felony;

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

7 (e) (blank); ~~more than 500 grams but not more than~~
8 ~~2,000 grams of any substance containing cannabis is guilty~~
9 ~~of a Class 3 felony;~~

10 (f) (blank); ~~more than 2,000 grams but not more than~~
11 ~~5,000 grams of any substance containing cannabis is guilty~~
12 ~~of a Class 2 felony;~~

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

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

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

18 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

19 Sec. 402. Except as otherwise authorized by this Act, it is
20 unlawful for any person knowingly to possess a controlled or
21 counterfeit substance or controlled substance analog. A
22 violation of this Act with respect to any ~~each of the~~
23 controlled substance ~~substances listed herein~~ constitutes a
24 single and separate violation of this Act. For purposes of this

1 Section, "controlled substance analog" or "analog" means a
2 substance, other than a controlled substance, which is not
3 approved by the United States Food and Drug Administration or,
4 if approved, is not dispensed or possessed in accordance with
5 State or federal law, and that has a chemical structure
6 substantially similar to that of a controlled substance in
7 Schedule I or II, or that was specifically designed to produce
8 an effect substantially similar to that of a controlled
9 substance in Schedule I or II. Examples of chemical classes in
10 which controlled substance analogs are found include, but are
11 not limited to, the following: phenethylamines, N-substituted
12 piperidines, morphinans, ecgonines, quinazolinones,
13 substituted indoles, and arylcycloalkylamines. For purposes of
14 this Act, a controlled substance analog shall be treated in the
15 same manner as the controlled substance to which it is
16 substantially similar.

17 (a) Any person who violates this Section with respect to
18 any controlled substance or counterfeit substance or
19 controlled substance analog, with the exception of
20 methamphetamine or an anabolic steroid is guilty of a Class A
21 misdemeanor. ~~with respect to the following controlled or~~
22 ~~counterfeit substances and amounts, notwithstanding any of the~~
23 ~~provisions of subsections (c) and (d) to the contrary, is~~
24 ~~guilty of a Class 1 felony and shall, if sentenced to a term of~~
25 ~~imprisonment, be sentenced as provided in this subsection (a)~~
26 ~~and fined as provided in subsection (b):~~

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

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

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

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

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

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

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

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

25 ~~(3) (A) not less than 4 years and not more than 15~~
26 ~~years with respect to 15 grams or more but less than~~

1 ~~100 grams of any substance containing morphine;~~

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

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

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

11 ~~(4) 200 grams or more of any substance containing~~
12 ~~peyote;~~

13 ~~(5) 200 grams or more of any substance containing a~~
14 ~~derivative of barbituric acid or any of the salts of a~~
15 ~~derivative of barbituric acid;~~

16 ~~(6) 200 grams or more of any substance containing~~
17 ~~amphetamine or any salt of an optical isomer of~~
18 ~~amphetamine;~~

19 ~~(6.5) (blank);~~

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

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

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

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

24 ~~(D) not less than 10 years and not more than 50~~
25 ~~years with respect to: (i) 900 grams or more of any~~
26 ~~substance containing lysergic acid diethylamide (LSD),~~

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

6 ~~(7.5) (A) not less than 4 years and not more than 15~~
7 ~~years with respect to: (i) 15 grams or more but less~~
8 ~~than 100 grams of any substance listed in paragraph~~
9 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
10 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
11 ~~Section 204, or an analog or derivative thereof, or~~
12 ~~(ii) 15 or more pills, tablets, caplets, capsules, or~~
13 ~~objects but less than 200 pills, tablets, caplets,~~
14 ~~capsules, or objects containing in them or having upon~~
15 ~~them any amount of any substance listed in paragraph~~
16 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
17 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
18 ~~Section 204, or an analog or derivative thereof;~~

19 ~~(B) not less than 6 years and not more than 30~~
20 ~~years with respect to: (i) 100 grams or more but less~~
21 ~~than 400 grams of any substance listed in paragraph~~
22 ~~(1), (2), (2.1), (2.2), (3), (14.1), (19), (20),~~
23 ~~(20.1), (21), (25), or (26) of subsection (d) of~~
24 ~~Section 204, or an analog or derivative thereof, or~~
25 ~~(ii) 200 or more pills, tablets, caplets, capsules, or~~
26 ~~objects but less than 600 pills, tablets, caplets,~~

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

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

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

1 ~~listed in paragraph (1), (2), (2.1), (2.2), (3),~~
2 ~~(14.1), (19), (20), (20.1), (21), (25), or (26) of~~
3 ~~subsection (d) of Section 204, or an analog or~~
4 ~~derivative thereof;~~

5 ~~(8) 30 grams or more of any substance containing~~
6 ~~pentazocine or any of the salts, isomers and salts of~~
7 ~~isomers of pentazocine, or an analog thereof;~~

8 ~~(9) 30 grams or more of any substance containing~~
9 ~~methaqualone or any of the salts, isomers and salts of~~
10 ~~isomers of methaqualone;~~

11 ~~(10) 30 grams or more of any substance containing~~
12 ~~phencyclidine or any of the salts, isomers and salts of~~
13 ~~isomers of phencyclidine (PCP);~~

14 ~~(10.5) 30 grams or more of any substance containing~~
15 ~~ketamine or any of the salts, isomers and salts of isomers~~
16 ~~of ketamine;~~

17 ~~(11) 200 grams or more of any substance containing any~~
18 ~~substance classified as a narcotic drug in Schedules I or~~
19 ~~II, or an analog thereof, which is not otherwise included~~
20 ~~in this subsection.~~

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

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

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

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

18 (Source: P.A. 99-371, eff. 1-1-16; 100-368, eff. 1-1-18.)

19 Section 25. The Methamphetamine Control and Community
20 Protection Act is amended by changing Section 60 as follows:

21 (720 ILCS 646/60)

22 Sec. 60. Methamphetamine possession.

23 (a) It is unlawful knowingly to possess methamphetamine or
24 a substance containing methamphetamine.

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

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

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

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

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

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

24 ~~(6) A person who possesses 900 or more grams of~~
25 ~~methamphetamine or a substance containing methamphetamine~~
26 ~~is guilty of a Class X felony, subject to a term of~~

1 ~~imprisonment of not less than 10 years and not more than 50~~
2 ~~years, and subject to a fine not to exceed \$300,000.~~

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

4 Section 30. The Unified Code of Corrections is amended by
5 adding Sections 5-9-5 and 8-7-1 as follows:

6 (730 ILCS 5/5-9-5 new)

7 Sec. 5-9-5. Resentencing as misdemeanants.

8 (a) In the case of a person who is facing criminal charges
9 for an offense committed before the effective date of this
10 amendatory Act of the 101st General Assembly that would have
11 qualified as a felony under Section 16-1, 16-25, 17-1, 21-1, or
12 21-1.3 of the Criminal Code of 1961 or the Criminal Code of
13 2012, the Cannabis Control Act, the Illinois Controlled
14 Substances Act, or the Methamphetamine Control and Community
15 Protection Act at the time it was committed, but the person has
16 not been sentenced by the time this amendatory Act of the 101st
17 General Assembly takes effect and this amendatory Act of the
18 101st General Assembly reclassifies the offense as a
19 misdemeanor, the sentencing court shall sentence the defendant
20 based on the amended penalties under the Criminal Code of 2012,
21 the Cannabis Control Act, the Illinois Controlled Substances
22 Act, or the Methamphetamine Control and Community Protection
23 Act.

24 (b) In the case of a person who is, at the time of the

1 effective date of this amendatory Act of the 101st General
2 Assembly, incarcerated for a felony offense under Section 16-1,
3 16-25, 17-1, 21-1, or 21-1.3 of the Criminal Code of 1961 or
4 the Criminal Code of 2012, the Cannabis Control Act, the
5 Illinois Controlled Substances Act, or the Methamphetamine
6 Control and Community Protection Act that has been subsequently
7 reclassified as a misdemeanor, the sentencing court, the
8 Director of Corrections, or the incarcerated person may make a
9 motion to recall the original sentence issued and re-sentence
10 the person to a misdemeanor under the amended penalties under
11 the Criminal Code of 2012, the Cannabis Control Act, the
12 Illinois Controlled Substances Act, or the Methamphetamine
13 Control and Community Protection Act. The sentencing court
14 shall determine whether the petitioner qualifies for
15 resentencing as a result of the reclassification of felony
16 offenses as misdemeanors under this amendatory Act of the 101st
17 General Assembly. If the petitioner qualifies for
18 resentencing, the petitioner's felony sentence shall be
19 recalled and the petitioner shall be re-sentenced to a
20 misdemeanor under Section 16-1, 16-25, 17-1, 21-1, or 21-1.3 of
21 the Criminal Code of 2012, the Cannabis Control Act, the
22 Illinois Controlled Substances Act, or the Methamphetamine
23 Control and Community Protection Act as amended by this
24 amendatory Act of the 101st General Assembly, unless the court,
25 in its discretion, determines that re-sentencing the
26 petitioner would pose an unreasonable risk of danger to public

1 safety. Under no circumstances shall re-sentencing result in a
2 sentence that is longer than the original sentence.

3 (c) In the case of a person who has completed his or her
4 sentence for a felony conviction under Section 16-1, 16-25,
5 17-1, 21-1, or 21-1.3 of the Criminal Code of 1961 or the
6 Criminal Code of 2012, the Cannabis Control Act, the Illinois
7 Controlled Substances Act, or the Methamphetamine Control and
8 Community Protection Act that is reclassified as a misdemeanor
9 by this amendatory Act of the 101st General Assembly, he or she
10 may apply to have the felony conviction designated as a
11 misdemeanor, or the sentencing court or Director of Corrections
12 may make a motion to have the felony conviction designated as a
13 misdemeanor. All sentencing courts throughout this State shall
14 provide applications for this purpose. If the court finds that
15 the felony conviction was for an offense that has been
16 reclassified as a misdemeanor by this amendatory Act of the
17 101st General Assembly, the court shall designate that the
18 conviction was for a misdemeanor.

19 (d) If the original sentencing court is not available for
20 re-sentencing under subsections (b) and (c), the presiding
21 judge shall designate another judge to rule on the motion or
22 application.

23 (e) Nothing in subsections (a) through (d) is intended to
24 diminish or abrogate any rights or remedies otherwise available
25 to the petitioner or applicant, or to the victims of the crimes
26 that resulted in the felony convictions at issue.

1 (730 ILCS 5/8-7-1 new)

2 Sec. 8-7-1. Purpose.

3 (a) From 1982 to 2013, Illinois' incarcerated population
4 nearly tripled, with much of the expansion caused by the
5 increased criminalization of poverty and the
6 disproportionately aggressive enforcement of criminal laws
7 within communities of color. These trends resulted in justice
8 expenditures more than doubling, in real dollars, during this
9 period. The General Assembly hereby declares it a priority to
10 right-size our justice system and realign our spending
11 priorities to maximize public health and safety. Through the
12 creation of the Justice Reinvestment Fund in the State
13 treasury, a substantial portion of the savings realized from
14 reducing our incarceration rate by reclassifying a series of
15 non-violent felony offenses as misdemeanors will be reinvested
16 in addressing the root causes of crime, violence, and
17 recidivism. Among a wide range of positive effects, this
18 initiative will create substantially healthier and safer
19 communities across the State by:

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

22 (2) targeting the community conditions that perpetuate
23 the cycle of crime; and

24 (3) providing formerly incarcerated persons a better
25 chance to succeed outside of prison.

1 (b) On or before July 31, 2020, and on or before July 31 of
2 each fiscal year thereafter, the Illinois Sentencing Policy
3 Advisory Council shall calculate the savings that accrued to
4 the State during the fiscal year ending June 30, 2020, as
5 compared to the fiscal year preceding the enactment of this
6 amendatory Act of the 101st General Assembly, due to the
7 re-classification of felony offenses under Sections 16-1,
8 16-25, 17-1, 21-1, and 21-1.3 of the Criminal Code of 2012, the
9 Cannabis Control Act, the Illinois Controlled Substances Act,
10 and the Methamphetamine Control and Community Protection Act as
11 misdemeanors. The savings calculation shall be solely based on:

12 (1) the number of persons incarcerated in a Department
13 of Corrections facility during the fiscal year ending June
14 30, 2019 for the offenses that have been reclassified as
15 misdemeanors by this amendatory Act of the 101st General
16 Assembly compared to the number of persons incarcerated for
17 those same offenses in a Department of Corrections facility
18 during the fiscal year for which the calculation is being
19 made;

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

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

24 (4) any reduction in fixed costs, overhead costs, or
25 administrative costs due to the closing of a Department of
26 Corrections facility, or portion of a Department of

1 Corrections facility, as a result of this amendatory Act of
2 the 101st General Assembly.

3 In making the calculations required by this subsection (b),
4 the Illinois Sentencing Policy Advisory Council shall use
5 actual data or best available estimates where actual data is
6 not available. The calculations shall be final and shall not be
7 adjusted for any subsequent changes in the underlying data. The
8 State Comptroller shall certify the results of the calculation
9 no later than August 15 of each fiscal year.

10 (c) On or before August 31, 2020, and before August 31 of
11 each fiscal year thereafter, the Comptroller shall transfer
12 from the General Fund to the Justice Reinvestment Fund 85% of
13 the total savings calculated under subsection (b) minus any
14 necessary deductions under subsections (m) and (n).

15 (d) Funds in the Justice Reinvestment Fund shall be
16 continuously appropriated for the purposes of this amendatory
17 Act. Funds transferred to the Justice Reinvestment Fund shall
18 be used exclusively for the purposes of this amendatory Act of
19 the 101st General Assembly and shall not be subject to
20 appropriation or transfer by the General Assembly for any other
21 purpose. The funds in the Justice Reinvestment Fund may be used
22 without regard to fiscal year.

23 (e) On or before April 30, 2020, the Illinois Sentencing
24 Policy Advisory Council shall calculate, for each county in the
25 State, the 3-year average of the number of residents of that
26 county who were incarcerated within a State prison for felony

1 offenses under Sections 16-1, 16-25, 17-1, 21-1, and 21-1.3 of
2 the Criminal Code of 1961 or the Criminal Code of 2012, the
3 Cannabis Control Act, the Illinois Controlled Substances Act,
4 and the Methamphetamine Control and Community Protection Act
5 that are re-classified as misdemeanors by this amendatory Act
6 of the 101st General Assembly. The 3-year average shall be
7 based on the fiscal years ending June 30, 2017; June 30, 2018;
8 and June 30, 2019.

9 (f) On or before April 30, 2020, the Illinois Sentencing
10 Policy Advisory Council shall calculate, for the entire State,
11 the 3-year average of the number of persons who were
12 incarcerated within a State prison for felony offenses under
13 Sections 16-1, 16-25, 17-1, 21-1, and 21-1.3 of the Criminal
14 Code of 1961 or the Criminal Code of 2012, the Cannabis Control
15 Act, the Illinois Controlled Substances Act, and the
16 Methamphetamine Control and Community Protection Act that are
17 re-classified as misdemeanors by this amendatory Act of the
18 101st General Assembly. The 3-year average shall be based on
19 the fiscal years ending June 30, 2017; June 30, 2018; and June
20 30, 2019.

21 (g) The Justice Reinvestment Fund shall be administered by
22 the Department of Human Services, and each county shall be
23 entitled to a proportionate share of the annual funds available
24 provided it meets the criteria described in subsection (h) of
25 this Section. For the fiscal year ending on June 30, 2020, each
26 county's proportionate share shall be based on their

1 contribution to the total number of persons who have
2 pre-existing felony convictions at the time of enactment of
3 this amendatory Act of the 101st General Assembly that are
4 re-sentenced or designated as misdemeanors under Section 5-9-5
5 of this Code by June 30, 2020. For each fiscal year thereafter,
6 each county's share of available funds shall be determined by
7 their 3-year average calculated in subsection (e) as a
8 percentage of the 3-year average for the State calculated in
9 subsection (f).

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

12 (1) They must submit an annual application in which
13 they specify how they will use the funds to improve public
14 health and safety through creating or expanding one or more
15 of the following:

16 (A) living-wage job opportunities;

17 (B) training programs for jobs that pay a living
18 wage;

19 (C) drug treatment services;

20 (D) mental health services, including trauma
21 recovery services for crime victims;

22 (E) afterschool programs for children and youth;

23 (F) pre-k programs;

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

25 (H) affordable housing opportunities;

26 (I) alternatives to justice-system involvement

1 within schools and throughout the community, including
2 but not limited to restorative justice programs and
3 increased use of social workers, psychologists,
4 conflict mediators, mental health counselors, and drug
5 treatment counselors to address low-level offenses.

6 (2) The application must specify how the funds will be
7 directed toward one or more of the following:

8 (A) The neighborhoods in the county that have the
9 largest number of residents in jail or prison;

10 (B) The neighborhoods in the county that have the
11 largest number of crime victims;

12 (C) Formerly incarcerated persons who are
13 re-entering the county from prison.

14 (i) Counties shall not use the funds to supplant existing
15 funds in the chosen programmatic areas.

16 (j) Counties receiving funds shall submit an annual report
17 to the Department of Human Services detailing the uses of the
18 funds and the impact they have had on public health and safety.
19 The Department of Human Services shall provide a summary report
20 to the Governor and the General Assembly on an annual basis.

21 (k) Funds left unclaimed due to a qualifying county failing
22 to submit an application or meet the specified criteria shall
23 be reallocated to the remaining counties on a proportionate
24 basis, based on the same proportion used in subsection (g)
25 while excluding the non-participating county or counties.

26 (l) The Comptroller shall annually conduct a randomized

1 audit of up to 10% of the counties receiving grants to ensure
2 the funds are disbursed and expended in accordance with the
3 requirements specified in this Section. The Comptroller shall
4 report his or her findings to the General Assembly and the
5 public.

6 (m) Any costs incurred by the Comptroller and the Illinois
7 Sentencing Policy Advisory Council in connection with the
8 fulfillment of its duties described in this Section shall be
9 deducted from the Justice Reinvestment Fund before the funds
10 are disbursed under subsection (c).

11 (n) Beginning with the fiscal year ending June 30, 2020,
12 the Illinois Sentencing Policy Advisory Council shall deduct
13 any additional costs incurred by the State court system in
14 fulfilling its duties under Section 5-9-5 during the preceding
15 year from the Justice Reinvestment Fund before the funds are
16 disbursed under subsection (c). The administrative costs shall
17 not account for more than 10% of the total funds to be
18 deposited into the Justice Reinvestment Fund for the fiscal
19 year ending June 30, 2020, and shall not account for more than
20 5% of the total funds to be deposited into the Justice
21 Reinvestment Fund for each fiscal year thereafter.

22 (o) Any administrative costs incurred by the Department of
23 Human Services in fulfilling its duties under this amendatory
24 Act shall be deducted from the available pool of funds. The
25 administrative costs shall not account for more than 5% of the
26 total funds deposited into the Justice Reinvestment Fund each

1 year.

1 INDEX

2 Statutes amended in order of appearance

3 30 ILCS 105/5.891 new

4 720 ILCS 5/16-1 from Ch. 38, par. 16-1

5 720 ILCS 5/16-25

6 720 ILCS 5/17-1 from Ch. 38, par. 17-1

7 720 ILCS 5/21-1 from Ch. 38, par. 21-1

8 720 ILCS 5/21-1.3

9 720 ILCS 550/4 from Ch. 56 1/2, par. 704

10 720 ILCS 570/402 from Ch. 56 1/2, par. 1402

11 720 ILCS 646/60

12 730 ILCS 5/5-9-5 new

13 730 ILCS 5/8-7-1 new