

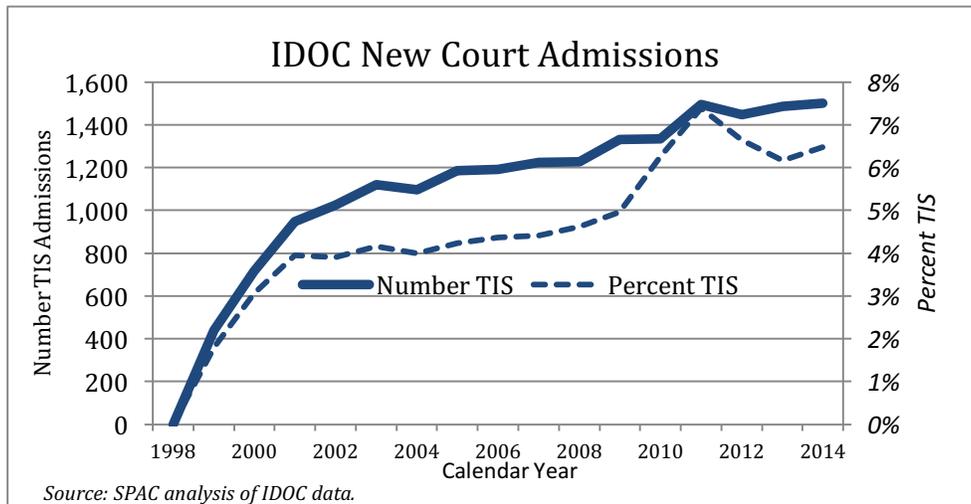
Proposed Area of Study: Truth-in-Sentencing

- **Current policies/practices:**

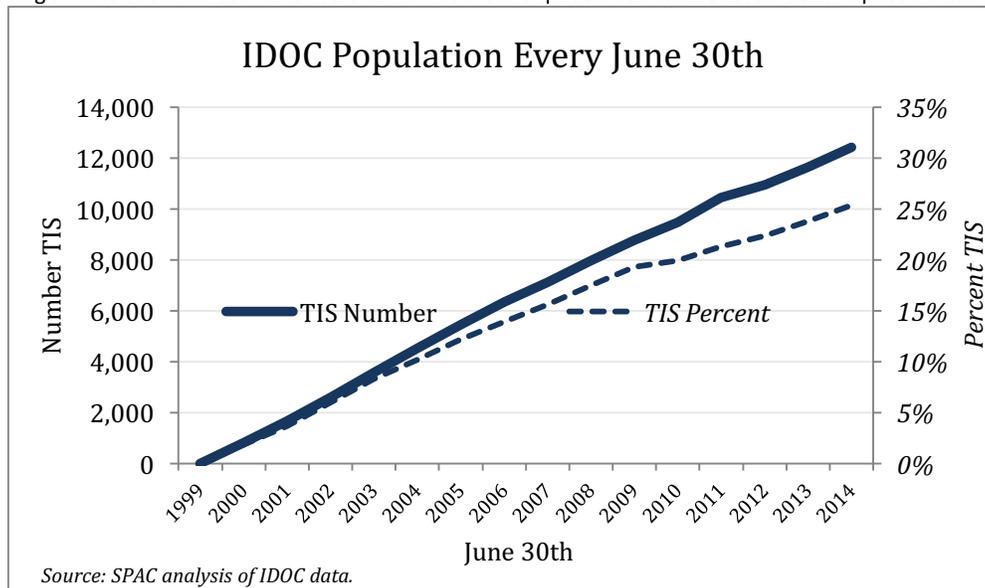
Illinois enacted “truth-in-sentencing” (TIS) in 1999 in response to a federal incentive program that provided grant money to build more prison space in exchange for implementing sentencing reforms requiring serious offenders to serve at least 85% of their sentence. The goal was to ensure some certainty that violent offenders would actually serve a greater proportion of the sentence imposed. (Olson, 2009). Unlike many states that reduced the sentence terms for the crimes subject to TIS, Illinois did not reduce the authorized terms.

The Illinois law (730 ILCS 5/3-6-3(a)(2)) applies to a limited number of serious offenses. In the past few years, between six and eight percent of all admissions (about 1,400 offenders) are subject to TIS restrictions. Because these admissions often have very lengthy sentences, one in four prisoners, or 25%, currently housed in IDOC are subject to TIS. In other words, 12,000 inmates currently in IDOC cannot receive the same level of sentence credits (either program or good-conduct credit) available to non-TIS inmates.

Currently, more individuals are admitted to prison each year on TIS offenses. The past three years, about 6.5% of all new court admissions are for these types of offenses. If the trend continues upward, the effect on IDOC population would continue to grow.



These increasing admissions have continued to build the number of prisoners with TIS restrictions in prison facilities.



- **Proposed practice or policy:**

The Commissioners suggested revising the restrictions imposed by the TIS law to diminish the length of stay for some inmates. The suggestions included:

- Eliminating TIS or reducing all TIS levels by one level (100% to 85%, 85% to 75%, 75% to day-for-day); or
- Restoring sentence credits for all offenders except murderers; or
- HB 4123 – TIS modification for murder, eliminate 75% for drug offenses, allow more sentence credit for additional offenses

- **Similar practice in other states:** none.

Rationale:

Mandatory minimums, sentence enhancements, truth-in-sentencing, and three-strike laws have all been identified as major contributors to the rise in the prison population nationally. In Illinois, truth-in-sentencing has dramatically increased the lengths of stay for the crimes subject to TIS. SPAC’s 2013 report on length of stay, authored by Dave Olson, noted that by 2011 roughly 28% of Class X felons and 6% of Class 1 felons exiting prison were subject to TIS as compared to 42% of the Class X and 7% of the Class 1 felons entering prison that year. The length of stay for the 2011 Class X admittees was going to be almost two years longer than their exiting counterparts primarily due to TIS requirements. In looking at the impact on length of stay for murder, SPAC found that had those convicted of murder who were exiting IDOC in 2011, 2012 & 2013 been sentenced pursuant to the current 100% TIS requirement, their average length of stay would have gone from 16 to 40 years.

Recent research has found that significantly longer sentence lengths do not produce notable public safety returns because offenders’ risk of re-offense decreases with age and an offender’s perception of the risk of getting caught has a greater deterrent effect than the harshness of the potential sentence.

- **Estimated impact on the prison population:**

- A. **Reducing all TIS restrictions one level:**

Reduce all TIS levels by one level, difference in population five and ten years later based solely on new court admissions:

Admissions Change	Change After 5 Years	Change After 10 Years
Murder	0	0
Class X	17	380
Class 1	48	100
Class 2	48	54
Class 3	6	6
Class 4	5	17
Total	176	631

If all TIS levels were scaled back by one level (i.e., 100% drops to 85%, 85% to 75%, and 75% to 50%), the impact would expand over time. Even after the ten years, new court admissions for people sentenced for murder would still not be released after ten years. At the end of the ten years, 78% of the reduction would be due to reducing the 85% TIS level and the remaining 22% would be from scaling back the 75% TIS level.

If the proposal were retroactive and current inmates were eligible for earlier release, the impact would be experienced immediately. Although the above impacts are projected for specific time periods, each individual affected would use less prison resources due to shorter stays. The prison resources could be considered “bed-years,” such that 1 offender with a ten-year length of stay uses 10 bed-years and 2 offenders with three-year lengths of stay use 6 bed-years. Retroactive application of modifications to truth-in-sentencing could have a dramatic impact on bed-year use.

As of June 30, 2014, IDOC’s population would have decreased by 69 individuals if all TIS levels were one level lower. In five years, that number would 1,120 fewer individuals in IDOC. In ten years, 513 fewer inmates would be held by IDOC. The list below shows the impact on the total population if the reform excluded murderers from the proposal.

Retroactive Change, One TIS-Level Reduction	Immediate Change	Change After 5 Years	Change After 10 Years
General Reduction of Current IDOC Population	69	1,120	513

B. HB4123:

SPAC recently conducted a fiscal impact analysis of House Bill 4123 (HB 4123). HB 4123 reduce TIS restrictions (1) for those convicted of first-degree murder could earn sentence credits but would be required to serve 75% rather than 100% of their sentence; (2) by removing the current restriction of 7.5 days per month for all Class X drug manufacture and delivery offenses; and (3) increases the number of allowed credits for several other offenses from 4.5 days per month to 8.5 days per month.

HB 4123 would apply prospectively and thus would not reduce the length of stay for those currently serving sentences for murder and the other enumerated offenses. The savings under HB 4123 would therefore not be realized for several years; the average TIS sentence affected by HB 4123 is 11 years, so the average savings would occur 10 years from enactment. In terms of the average size of the impact, for murders—whose sentence is often 40 years of prison—10 years could be reduced from their sentences through the earning of sentence credits as allowed in HB 4123. For all other offenses, which have an average sentence of 11 years, the reduction would be 1.5 years each.

C. Eliminating TIS:

Eliminate TIS, difference in population five and ten years later based solely on new court admissions to prison:

Admissions Change	Change After 5 Years	Change After 10 Years
Murder	0	0
Class X	572	2,229
Class 1	407	461
Class 2	295	375
Class 3	22	16
Class 4	33	86
Total	1,328	3,167

If TIS were eliminated, the impact would expand over time. After the ten years, eventually people sentenced for murder would be eligible for release under a non-TIS sentencing regime, increasing the impact even further. At the end of the ten years, 92% of the reduction would be due to eliminating the 85% TIS level and the remaining 8% would be from the 75% TIS level.

If the proposal were retroactive and inmates currently in IDOC on truth-in-sentencing offenses were eligible for previously earned good-time, the effect would be greater and more immediate. Complete elimination of TIS, as applied to the IDOC population on June 30, 2014, would result in the recalculation of release dates and release of 1,051 offenders.

Retroactive Change, Eliminate TIS	Immediate Change	Change After 5 Years	Change After 10 Years
General Reduction of Current IDOC Population	1,051	4,002	1,003

Although the above impacts are projected for specific time periods, each individual affected would use less prison resources due to shorter stays. The prison resources could be considered “bed-years,” such that 1 offender with a ten-year length of stay uses 10 bed-years and 2 offenders with three-year lengths of stay use 6 bed-years. Eliminating truth-in-sentencing would have a dramatic impact on bed-year use, particularly of murder offenders.

Overall, the effect of eliminating truth-in-sentencing on the current prison population alone would save 34,291 bed-years for any non-murderer offender. If murder sentences were included as well, the total bed-years reduced (120,000) are an expected 25% of the total bed-years of IDOC’s current inmates. In other words, eliminating truth-in-sentencing entirely would immediately reduce IDOC’s expected resource use, or number of bed-years, by 25%.

• Related evidence-based or promising practices:

Lengths of stay have minimal impact on recidivism. With respect to deterrence, research indicates offenders discount future imprisonment regardless of the length of the possible sentence.

Implementation Issues:

- **Necessary legislative changes:**

Amend 730 ILCS 5/3-6-3 to provide more credits per month and/or remove offenses from the restrictions.

- **Potential challenges or barriers to implementation:**

If prospective, IDOC can calculate projected release dates according to the new rules. This effort would require minimal staff training (IDOC already projects release dates for those eligible for day-for-day credits); however the effects would not be experienced for years while offenders serve their average of 11 year sentences.

If retroactive, the impacts would be experienced immediately but would require an administrative process for recalculating sentence lengths.

- **Recommendations for addressing challenges or barriers:**

To achieve a 25% reduction of the prison population by 2025, allow current TIS inmates to be eligible for sentence credits and—if a process determines public safety is not harmed—receive the appropriate credits to achieve the Commission’s goal.

Data:

- **Data necessary for monitoring implementation:**

Continued monitoring of IDOC data of TIS admissions, lengths of stay, and sentence credits.

Budget and Capacity (Budget and Capacity Subcommittee):

- Impact on system/agency:

Legal Changes (Law Subcommittee):

- Suggested legislative impact/issues: