

Testimony to Illinois General Assembly, SB1722
House Judiciary – Criminal Law Committee
May 25, 2017

Members of the Committee,

Thank you for the opportunity to discuss this important matter today. I am happy to preview for you the new information our law students have compiled on the topic of gun possession sentencing in the United States, following an exhaustive 50-state review.

Previous analyses by our clinic – along with many other researchers, analysts, policymakers, and community organizations – have found that further increases to Illinois’ gun possession sentencing laws are:

- a) **not expected to deter** gun violence;
- b) **unable to produce a net incapacitation benefit**;
- c) likely to **decrease swiftness and certainty** of penalties;
- d) projected to **increase county jail population**, in addition to that of state prisons;
- e) **unnecessary to achieve the public safety benefits** realized by other major cities; and
- f) likely to **obstruct progress on the comprehensive plan** needed to address gun violence.

Over the last four years of debate, I have discussed these points with many of you. I will gladly answer remaining questions, but first want to tell you something you probably have not heard: **Illinois’ current minimum sentences for unlicensed gun possession are longer and more mandatory than most states’ -- and most of the federal system.**

This fact confuses many Chicagoans who have heard it claimed that our state’s “weak gun laws” are creating a “revolving door,” especially when it comes to “repeat violent gun offenders.” I cannot explain those statements, only the degree to which they fail to track Illinois’ criminal code.

Illinois increased penalties for unlawful gun possession six times between 2000 and 2012, tripling weapons offenders in IDOC without adding a measurable public safety benefit, according to the Illinois Sentencing Policy Advisory Council.

Only four other states require prison for first-time gun possession (see figure). **All of the states that border Illinois allow for alternatives to incarceration for a *second* gun possession violation** (the offense targeted by SB1722 is second-time gun possession).

It is also much more difficult to violate gun laws elsewhere; while Illinois is one of only a few states with a FOID card requirement, several states are now also abandoning concealed-carry permits, including our neighbor, Missouri. When gun possession is not criminalized, one cannot become a “felon-in-possession” without committing a non-gun offense. **Only 5 states (Delaware, Hawaii, Massachusetts, New Jersey, and New York) both felonize gun possession and apply higher mandatory minimum sentences to second-time possessors than Illinois.**

Providing this context is not intended to advocate that Illinois adopt other states’ schemes for gun licensing and regulation. Rather, it is to emphasize how few states give permanent felonies and mandatory prison to their citizens for this conduct. In fact, our current prison sentences are so out-of-step, many Illinois prosecutors outside of Cook County may be working around them, leading to broader racial and geographic disparities than in many other types of incarceration (see figure).

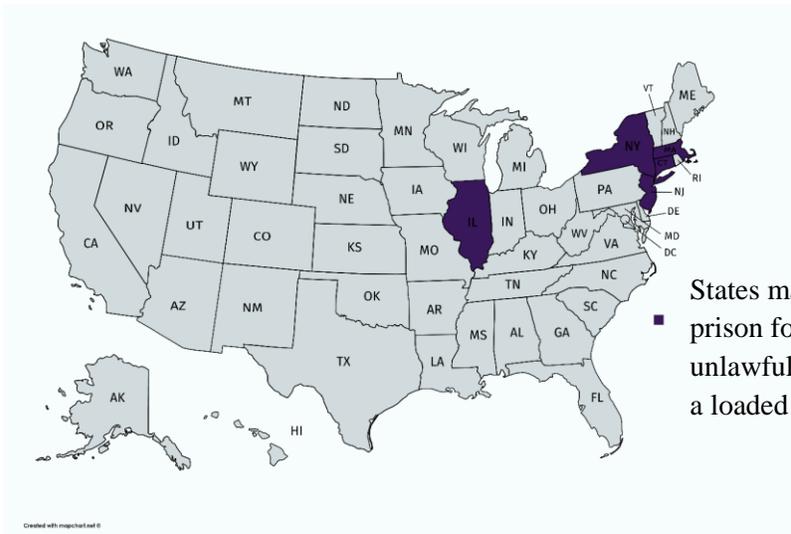
The Sentencing Policy Advisory Council has not reviewed the current iteration of this bill, but its estimate of the enhancement provision indicates that **over the next decade, SB1722’s gun sentencing provisions will cost \$36M (\$47.7M after adding Vera Institute’s estimated non-corrections costs), incarcerate gun possessors for an additional 2,500 person-years – and produce a victimization benefit smaller than that of one single life saved.**

Due to the recent increase in homicide rates after years of decline, the public is demanding solutions to gun violence with renewed energy. At such moments, it is more important than ever to focus attention exclusively on effective solutions, rather than falling into the emergency trap of developing reactionary policies that are ineffective and costly.

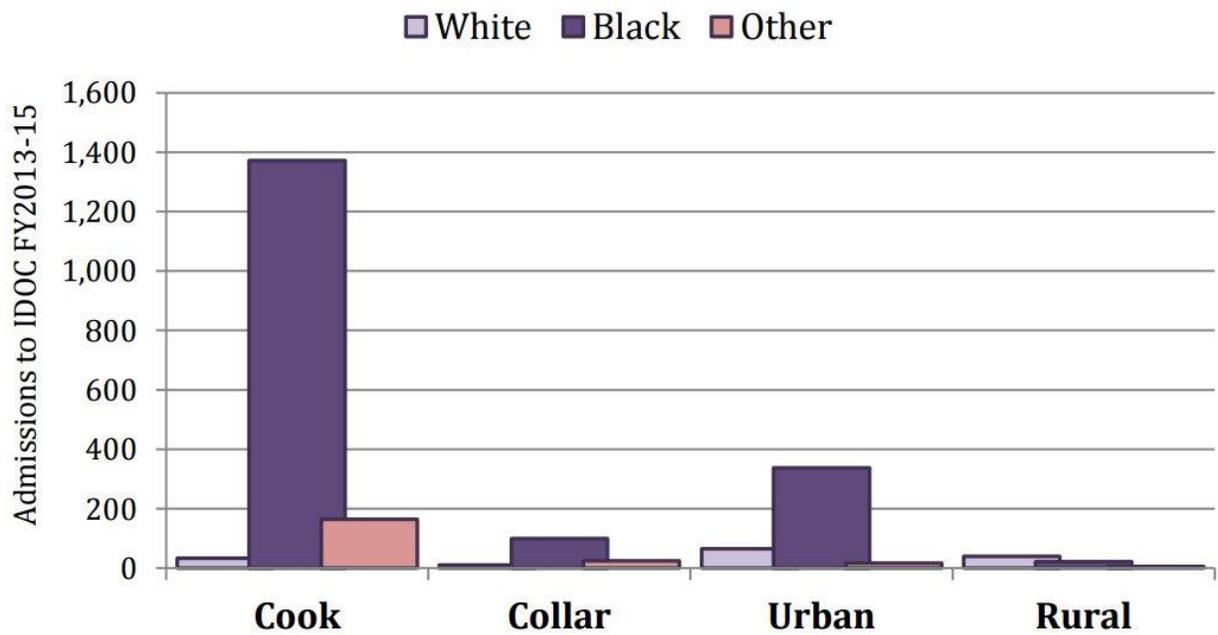
Instead, please redouble your attention to critical objectives that can better promote public safety, including: fully and sustainably funding bedrock social services; promoting individualized, reasoned, and neutral accountability for defendants; maintaining fidelity to improved safety outcomes; meeting key timeline benchmarks to reduce hazardous prison overcrowding; and responsibly reducing illegal gun flow.

Thank you for attention and, I hope, your questions.

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Federal and Illinois State Sentencing Ranges Second-Time Felon-in-Possession of a Firearm	
Current Illinois Penalty	36-168 months
Federal Sentencing Guideline (regular felony history)	12-37 months
Federal (violent/drug trafficking history)	37-87 months
SB1722 presumptive range	84-168 months



Credit: Sentencing Policy Advisory Council
http://www.icjia.state.il.us/spac/pdf/SPAC_Trends_Analysis_Report_09_2014.pdf