

**BILL SUMMARY**  
1<sup>st</sup> Session of the 57<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 1269</b>
<b>Version:</b>	<b>INT</b>
<b>Request Number:</b>	<b>5667</b>
<b>Author:</b>	<b>Rep. Dunnington</b>
<b>Date:</b>	<b>2/12/2019</b>
<b>Impact:</b>	<b>Estimated cost aversion for DOC between \$900,000-\$1.3 million (for possession), possible short-term increase in workload for DOC, DAs, OIDS, and the District Courts</b>

**Research Analysis**

HB 1269 would apply the provisions of SQ 780 retroactively. The measure requires courts to set aside the judgment and sentence and resentence certain persons convicted of certain drug crimes that if committed on or after July 1, 2017 would have been a misdemeanor. The Department of Corrections is to identify persons to which retroactivity may apply. The measure provides that a hearing to modify a sentence is not to be conducted unless requested by the person. The bill provides for resentencing within 3 months of receipt of the report prepared by the Department of Corrections. The measure requires the Department of Corrections to compile and distribute a report every 3 months to each presiding judge of the district courts listing the individuals convicted of an offense subject to these proceedings.

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**Fiscal Analysis**

HB 1269, which applies the provisions of SQ 780 retroactively, will have an impact on several state agencies- both positive and negative. A large percentage of inmates currently incarcerated for drug possession will be eligible for release without a court hearing. However, those convicted of property crimes are required to petition the court to have sentences changed. This is due to a lack of a centralized database with specific inmate case information- information which will have to be pulled from physical files and reviewed on a case by case basis by DOC or the DAs. There will be a short-term cost for: DOC, DAs, OIDS, and the district courts. Once the majority of existing cases are processed, the cost will sharply decrease. With a large amount of inmates currently incarcerated, who, once re-sentenced, will be eligible for immediate release, there will be a savings for DOC. The exact impact is dependent upon how many inmates request to be re-sentenced and how many are released from DOC custody.

**State Agency Responsibilities with Possible Costs/Savings:**

Department of Corrections: DOC estimates a cost aversion of \$900,000-\$1.3 million for possession charges alone depending on the effective date of the measure. See "Other Considerations" below for methodology. They do not currently have data on the property crimes. That impact is unknown.

District Courts: required to re-sentence within 3 months- could increase dockets for the short-term. Judges and court staff are both salaried and hourly state employees: possible increase in overtime and/or compensatory time.



Fiscal Impact 780 Retroactive - Prepared 3/11/19													
Assumes Effective Date for Releases is 45 Days Following 11/1/2019													
Number of Inmates Affected		2/28/2019	1/22/2019	10/9/2018									
Days Between Reports				37	105								
Number of Inmates Affected													
	Only Possession	921	992	1,127	206	142	1.45	246	357	564	65	499	
	Controlling Possession	978	1,015	1,167	189	142	1.33	246	327	651	60	591	
	Any Possession	2,890	3,050	3,208	318	142	2.24	246	551	2,339	101	2,238	
Cost Aversion													
	Number of Affected Inmates	Average Possession Sentence Length in Days	Average Proportion of Sentence Served Based on 2018 Releases (Includes jail time credit + days served between date of sentencing and release).	Estimated Number of Days to be Served (e.g., 2,936 x 46.10%)	Actual Days Served = jail time credit + Days Through 2/28	Estimated Days Until Releases Under New Statute (days between 2/28 and 11/1/19 + 45 days)	Days That Would Have Been Served After 11/1/19 + 45 days (e.g., 1,354 - (999 + 291))	Average Days That Would Have Been Served Per Inmate X Inmates (e.g., 499 x 64)	FY 18 Actual Marginal Cost Per Day = medical, food, clothing/linen/personal supplies and inmate pay. See Note 5.	Estimated Averted Cost (e.g., 31,936 x \$13.40)			
	499	2,936	46.10%	1,354	999	291	64	31,936	\$13.40	\$427,942.40			
	591	3,679	47.89%	1,762	1,044	291	427						
	591	3,014	52.13%	1,571	964	291	316						
Reduction in Time from Controlling to 2nd Controlling													
Total Estimated Cost Aversion											\$13.40	\$879,053.40	See Note 6.
<b>Notes:</b> 1. As a result of the legislation the Only Possession group will exit following sentence modification. 2. The Controlling Possession group has one or more additional convictions for crimes other than Possession; however, the possession crime is the longest sentence currently being served. The legislation would reduce the amount of time served to the next longest non-possession sentence (i.e., referred to as 2nd Controlling Offense in the above). 3. The Any Possession group has a controlling offense other than one affected by SQ 780. The legislation will have no impact on the amount of time to be served in prison. 4. HB 1269 (page 6, lines 12-14) states, "The court shall resentence each person...within three (3) months..." Assumption made that inmates with less than 45 days remaining will have less than the allotted time remaining to serve. 5. Cost Aversion is limited to the marginal cost per day per inmate. Utilization of the full cost per day assumes the closure of housing units, elimination of staff, etc. The reality is that temporary beds would be eliminated and staff would be reassigned to areas currently understaffed. 6. Averted costs would be reallocated to other underfunded areas (e.g., staff salary adjustments, medical, physical plant maintenance).													
Days Between 2/28/19 and 11/1/19		2/28/2019	11/1/2019	246									

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