

67372

A Report On The Effects  
Of The Amount of Time Served Prior  
To Release Eligibility As Proposed By  
House Bill #313

The Ohio Department of Rehabilitation & Correction  
Division of Institutions

G. F. Denton  
Director

J. P. Canney  
Division Chief

John Beach  
Statistics Administrator

April 19, 1977

67372

430-22  
DEPARTMENT OF  
REHABILITATION AND CORRECTION

INTRA-DEPARTMENTAL REFERENCE

April 19, 1977

To: Director George F. Denton

From: J. P. Canney, Chief  
Division of Institutions *JS*

RE: 1977 MANDATORY SENTENCE BILL (H.B. 313)

The attached analysis prepared by the Research and Statistics Section of the Division of Institutions presents that information upon which various predicted outcomes may be developed. There are three different sections of H.B. 313, each of which has its own separate impact upon the Division of Institutions in respect to the size of the confined population. The attached report represents but one of these impacts and shall be discussed as the third section in this summary. The first section of this summary shall be devoted to the impact upon the Division of Institutions as a result of mandatory pre-sentence investigations authorized under Section 2929.62. The second impact analysis arises from Section 2967.13, which will permit the confined inmate who was sentenced prior to July 1, 1978, having his sentence converted to the new definite mandatory sentence.

Mandatory Pre-sentence Investigations:

The Division of Parole and Community Services is assessing the cost factor as it relates to utilization of this investigation while the individual is confined in the community. Section 2929.65 permits the sentencing judge discretion whereby confinement for purposes of the pre-sentence investigation may be made to the Ohio Department of Rehabilitation and Correction for 60 days, provided that the Department can handle this work. It can be reasonably expected that the courts will solicit this service because of the increasing requests for physician, psychiatrist and psychologist evaluations as add-on requests to the pre-sentence investigation. During the past year, inquiries have been directed to this Division by various judges because of their needs for specific services which cannot readily be provided by the community for various reasons. It can be anticipated that if this Department were to provide this type of service, as much as 50% of the cases (in the neighborhood of 11,000 per year) could be referred. Such a referral rate would establish the need for at least a 1667-bed institution for which an operating cost of 10 million dollars a year could be anticipated. This cost factor does not include capital expenditures which would be needed since this Department currently does not have the availability of such a facility. It should also be noted that in the eventuality such referrals should occur, Section 2929.62 provides the right of counsel at the time of a physical or personality examination. This right represents a new cost factor which is not currently

available to the confined population since Section 5120.11 mandates such examinations on all those who are confined to this Department.

Sentence Conversion Procedures of Prisoners Currently Confined:

It is to be anticipated that most of the inmates will apply for sentence conversion. This anticipation arises from the fact that this particular section provides a bonus of early release to many of those currently confined on lengthy sentences because they are classified as dangerous and/or repetitive felons by the sentence provided by the court, by the decision of the Adult Parole Board, and by the decision rendered in internal Departmental classification and disciplinary proceedings. The impact of this release bonus is demonstrated by the small 15-person sample which is attached. This writer selected this 15-prisoner purposive sample and had the analysis conducted by the Departmental Psychology Administrator. As can be noticed from this attachment, 7 of the 15 candidates will be released in 1978 when the law becomes effective. Several of the remaining 8 will be released in a matter of 1 or 2 years afterwards. Six of the 15 are serving their first major commitment, 1 is serving his second major commitment, 2 are serving their third commitment, 3 are serving their fourth commitment, 1 is serving his fifth commitment, and 1 is serving his sixth commitment. The outcome of this analysis arises from several factors: (1) the current traditional practice is one wherein all individuals are provided with 100% of their diminution of sentence credit (good time) automatically at a 100% level. The Adult Parole Board, at a regular hearing, upon review of the individual's status includes this as one of the factors in a denial of parole at the time of that particular hearing. Since these individuals have, therefore, technically received 100% of their good time, Section 5145.03B indicates that equivalent good time under the new rate is to be provided to them; (2) even though the review committee appointed under this act would feel that the individual should not have his full good time, it was judicially established some years ago that good time, once granted, could not be rescinded; (3) as each individual's case is reviewed, Sections 2967.25 and .13 mandate that all sentences, whether they be concurrent or consecutive, shall be concurrent unless a sentence occurred while the individual was still serving time on another sentence; (4) the Review Committee created by this act cannot provide repeat offender time to these prisoners since Section 2929.11 specifies that such action requires court action.

In order to fully evaluate the outcome of this particular section, it would be necessary to study each individual prisoner's case. Since there was insufficient time to do this, the following estimate is being provided. It is estimated that of the 2266 inmates confined at the Southern Ohio Correctional Facility as of April 11, 1977, approximately 20% or 453 would be eligible for immediate release in the latter part of 1978 under this bill. This institution, which is composed of the highest concentration of dangerous and repeat offenders, as well as serious internal conduct violators, will reap the lion's share of this

release bonus. It is to be expected that the release frequency would be the same for the remainder of the confined population. It would appear that the proposed law was not designed to create this type of favorable impact upon the repeaters, especially those requiring placement in a maximum security facility.

#### Impact Upon Confined Population:

The best way to introduce presentation of this section of the summary is to review, in simplified form, current confinement practices in Ohio. Of all those felony cases heard by the court during a fiscal year, this Department receives approximately 1 out of 3 individuals so considered. Shock probation and shock parole account for early release after 6 months or less confinement in 35% of those recently admitted prisoners. As a result, this confinement ratio now represents about 1 out of 5.

The above simplified ratios are not changed by H.B. 313. However, the bill does introduce a series of actions leading to what is deemed to be unnecessary excessive confinement for those who are now currently released earlier with safety. Examination of the tables will reveal that the second impact is one of reducing time currently served as degree severity increases.

The employed analysis methods approached the bill as if it were currently in effect. The alphabetized tables provide given data against which comparisons were made. The numerical tables approach the predicted problem in four different ways. The first "liberal" approach assumed that courts would continue to use the same sentencing practices as currently used and that the accrued good time would reach 100% credit for all prisoners. The second "liberal" approach assumed that the prisoners would only accrue 90% of the available good time. The third approach, titled "the conservative approach" assumed that judges responding to the public's demand for stricter sentences would respond under the new bill in a somewhat stricter fashion and 100% of the good time was credited. The fourth approach made the same "conservative" assumption and credited the prisoners with accruing 90% of the available good time. Since the bill indicated that the court shall provide increased sanctions for repeat offenders, this was used throughout the analyses. This, too, was a liberal approach in the total analysis since a judge, at his discretion, is empowered to use the add-on penalties for those who are dangerous offenders even though they are being sentenced on their first felony commitment. This condition was not considered since there was no logical and rational way to predict it.

Another irony of H.B. 313 is that individuals sentenced to the Ohio State Reformatory will lose the reformatory diminution of time credits. This loss will add 8.7 months to each confined reformatory offender's sentence for members of that group who now can be paroled at their first regular parole hearing. However, individuals sentenced to the Ohio Penitentiary because the judge felt they required a penitentiary rather than a reformatory sentence (this represents the majority since current penitentiary intake age is 24), will only have an add-on

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of 1.1 months to their current first hearing parole time and the time which they serve will be the same as served by a reformatory inmate.

The bonuses in time served will accrue to Ohio State Reformatory continued cases (continued at the discretion of the Adult Parole Board as being less ready for release than others) and by Ohio penitentiary continued cases who are serving lengthier sentences by reason of both the court's and the Adult Parole Board's actions.

In developing a cost estimate factor arising from this bill, it was assumed that operating costs per man per year would be \$4,534. This figure was chosen because it represents the current unit cost for 1977 based upon current confined population. To be perfectly honest, if housing space were available within the Department for an increase in the population, all things being equal, the unit cost would tend to decrease as the confinement total increased. However, the Department is currently approaching its emergency capacity and even if 1000 inmates were released immediately, this would be but a temporary provision of living space. No attempt has been made to assess capital expenditure costs in this analysis. The results are as follows:

1. If the liberal procedure were in effect, with a credit of 100% good time, the confined population would increase 1,354 at a cost in four years of \$6,000,139.36. The first biennium increase in confinement would be 399 prisoners at a biennium increased cost of \$1,809,066.
2. When the liberal analysis was undertaken with an accrual of 90% of the available good time credits, the confinement population would increase by 2,568 at an increased expenditure of \$11,643,312. over a 27-month period. The biennium population increase would be 2,264 at an increased operational expense of \$10,267,118.
3. When the conservative analysis is used with 100% crediting of good time, the institution population will increase by 3,212 over a 55-month period at a cost of \$14, 563,028. The first biennium increase would be on the order of 1,597 additional prisoners at an additional operating cost of \$7,240,798.
4. When the conservative analysis is utilized with accumulation of 90% of the available good time credits, the increase in confinement population over a 55-month period is 4,616 at an increased cost factor of \$20,928,944. The biennium anticipation would be for an increase in the population of 2,520 at an increased biennium operating cost of \$11,425,680.

It is the firm conviction of this writer that the most realistic appraisal of what will happen is utilized in the fourth analysis listed in the preceding paragraph. This figure, however, will have to be reduced in the face of an

anticipated 1,000 prisoner confinement reduction as a result of converting all sentences over to the new formulae. This would reduce the anticipation of increased biennium operating costs to a \$6,891,680. figure. Any additional releases realized during the biennium will be counter balanced by increased utilization of the repeater sentences on the part of the judges in Section 2929.11C when they follow the guidelines provided in Section 2929.01 whereby this increased sentence, when taken into account with Section 2929.13A, permits a dangerous offender to be a first offender who presents "serious physical harm" towards a victim. To reiterate, the additional sentence sanctions for purposes of this study were only applied to repeat offenders upon readmission.

#### Discussion:

It would appear that a definite sentencing law will create a historical repetition in unnecessarily increasing the size of the confinement populations contrary to the original intent. This reversal of intention arises because the cure is based upon a set of false premises rather than upon a realistic and objective appraisal of events as they are actually occurring. The presumptive premises in the present instance are that felons are both confined an insufficient amount of time and are also simultaneously confined too long. Another associated premise is that committing and releasing authorities of the criminal justice system are not properly using their discretionary decision-making powers. Ohio's data, as presented in the attached reports, dispute some of these presumptive premises. The Uniform Crime Reports, when examined, reveal that Ohio, when compared with other populous urbanized states, has far greater similarity than dissimilarity to these states in their incidence of felony crime, court cases, diversion rates, and confinement rates. The Uniform Parole Reports reveal that over a three-year span, Ohio's releases operate at an 80% success level (non-felony involvement in a three-year span). This success rate is similar to the other populous urbanized states with large felony confined populations. This high level of success is retained in the follow-up records of released second commitment offenders, as well as third or more commitment offenders.

The above paragraph contradicts the theme of the March, 1976, LEAA funded study for the Council of State Governments. This report, which examines the movement towards indefinite mandatory sentences in four states--California, Illinois, Minnesota and Maine--claims that confined populations will be reduced in an increased movement towards probation and other diversionary placements. The study, Definite Sentencing: An Examination of Proposals in Four States, confines itself, however, to a theoretical justification of the tenuous ends to be achieved rather than seeking out the data and evaluating it in terms of the directions to be anticipated. To this writer, this tenuous ends or goals appear to be an emotionalized belief that diversionary rather than confinement practices will be enhanced. The study fails to recognize the public groundswell

for longer sentences. California and Illinois comparison tables are presented but practically ignored even though a cursory examination tends to indicate they are reflecting many of the trends outlined in the attached Ohio evaluations. Similarly, the John Howard Association report is provided but then challenged on methodologic rather than factual grounds. On page 39 of the report, a "straw man argument" is created whereby indeterminate sentences are identified as the primary factory in prison tension and frustration which can be cured by utilization of the indefinite sentence. To the contrary, this writer has found that prison tension and frustration arises from several factors. The pursuit of freedom at the earliest point possible is a goal of almost every confined individual. Some seek to attain this goal through escape, some through dissociation, some through manipulation, and some through their overwhelming dependence on "lady luck" rather than upon one's control of one's destiny. If lady luck will only change the rules of the game in respect to release, then freedom will result. In other words, the grass is always greener in the other pasture until you reach that pasture and discover that there are just as many weeds there as in the area departed. At this point, interest begins to emerge directed towards a return to the departed pasture.

The findings of the Ohio analyses are consistent with the September 1976, Staff Report on the Use and Impact of Mandatory Sentencing in Pennsylvania. A 2100 inmate increase (page 16) is anticipated. Such an increase points towards the need for additional cell space at an estimated cost of \$30,000-\$50,000. per cell and an add-on cost of \$8,000. per year per inmate in additional operating expenses. On the same page it is pointed out that definite sentences for second offenders and drug law violators in New York required an increased appropriation to the courts in the first two years of 50 million dollars. On page 33 it is reported that definite sentences increased the court's backlog and costs, both in New York state and the state of Massachusetts. On page 18 of this report it is pointed out that the confinement ratio is more related to the age groups contributing to the confinement population rather than to types of sentences. This State anticipates a reduction in the size of confinement populations during the decade of the 80's because there will be a smaller subgroup of younger individuals. Professor Flannagan of the University of Wisconsin has speculated similarly. If these speculations be true, then master planning for the state of Ohio will have to address this particular factor very closely. Currently, the median intake age at the reformatories is 21 years of age and the median intake age at the penitentiary is 24 years of age. On page 32, this State reaches the conclusion similar to the one involved in Ohio's analysis, that mandatory sentences will encourage the use of confinement and a reduction in diversion.

#### Conclusion:

1. The present definite mandatory sentence bill (H.B.313) will result in unnecessary excessive confinement for those who can be released at earlier points in time with a high expectation of success.



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2. Implementation of this bill will increase the numbers of people to be confined. Such increase will necessitate the establishment of additional confinement facilities in the very near future.

3. Implementation of the bill will result in increased expenditures at an increased level of at least \$6,891,680. for the 78 and 79 biennium. The writer's experience indicates that any error in this anticipation will be that of underestimate in costs rather than an overestimate.

4. It has been impossible to anticipate growth factors with any degree of certainty beyond the fiscal 78 and 79 biennium.

5. Examination of the tables will reveal that Ohio is possibly ready to trade in a flexible system of sentencing procedures for a rigid, inflexible model. A single individual (the committing judge) in each of the 88 counties will have greater discretionary power than any single individual has under the present system and will show a greater deviance from the normative average of the total number of judges in the State. The present sentence's flexibility arises from the fact that discretionary power is shared by several Adult Parole Board members with the sentencing judge.

In view of the problems spawned by early attempts at definite sentences and in view of the pessimism arising from the Ohio and Pennsylvania data, it is the writer's recommendation that Ohio maintain its present system for at least the next two years. This system permits utilization of early release as well as longer sentences for those with dangerous and repetitive crime histories. At the end of this two-year period, Ohio will have a great deal more actual data developed directly pertinent to this topic and it will have the success and failure experiences of the other states during pursuit of what may be just another fad. Greater actual experience is needed since this present study can only project a one-time increase in population over the defined time spans. However, there is a danger that indefinite sentencing could precipitate a rising confinement curve which would exceed this study's anticipation.

JPC:jm

Encls.

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APR 13 1977

DEPT. REHABILITATION  
& CORRECTION

April 12, 1977

DEPARTMENT OF  
REHABILITATION AND CORRECTION

## INTRA-DEPARTMENTAL REFERENCE

TO: Mr. J. P. Canney, Chief  
Division of Institutions

FROM: W. W. Gilbert, Ph.D., Administrator  
Psychological Services

RE: Effects of H.B. 313 on Sentences

This is a projection of the effects of H.B. 313 on the sentences of 15 representative maximum security inmates at the SOCF.

The analysis is based on the following assumptions:


1. Use of the maximum available H.B. 313 sentence;
2. All sentences to be concurrent except for new crimes committed while under sentence (on parole, on escape, or in the institution).
3. Allowing of full good time earnings;
4. Only the court can specify "repeat" offender penalties.

A supplemental analysis was made using the maximum available "repeat" offender sentences where they might be applicable, with full good time earning credits.

The results are presented in tabular form with case-by-case comments for further reference.

All projections are based on best currently available data.

Sincerely,



W. W. Gilbert, Ph.D., Administrator  
Psychological Services

WWG:mc

attachment

cc: File

Number	Number of felony sentences	Current Charge	Serious Prior Charges	Sentence	Parole Date	Maximum Sentence	Released Under HB 313	Released Under HB 313 as "Repeat" Offender if Applicable
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ALL AVAILABLE DATA FILMED.

1	4	Murder 2 <sup>o</sup>	Rob. Auto Theft	Life	6/81	Life	12/83	12/83	Murder (current chg.) occurred while in prison.
2	4	Robbery	Burglary Robbery Robbery	4-15	6/78	10/90	4/79	4/81	Will probably not be released at 1st parole hearing.
3	1	B & E Inhab. dwel. nite		Life	5/81	Life	8/76		Current total of 12 chgs.-Serious adjustment problems.
4	1	Kidnap: Armed Robbery		29-159	2/79	2049	11/65		Current total of 12 chgs. 1970 Parole Violation, app. involved in spree of armed robbery prosecu. 1968 OP riot.
5	3	Armed Robbery	B & E Arm. Rob.	10-25	7/77	3/94	3/74	3/78	Current total of 3 chgs. Escaped 1/72 (without prosecution).
6	1	Robbery Murder 1 <sup>o</sup>		Life	8/83	Life	11/81		Adjustment problems--was initially sentenced to death.
7	1	Rape		9-60	3/79	2027	12/73		Current total of 6 assaul. sex offenses involv. in prison riot assault. Continuing adjustment problems.
8	2	Aggrava. Robbery	Robbery Prison Riot	21-125	1/82	2084	9/80	9/84	Current sentence includes parole violation for total of 7 chgs. including prison riot.
9	5	B & E CCW	Burg. B&E Robbery	2-5	3/79	9/80	3/77	9/79	Current sentence includes 3 chgs. Institution adjustment problems.
10	2	Rape	Robbery	4-25	5/78	2000	11/80	11/84	
11	1	Agg. Rob. Kidnap		10-50	11/82	2026	8/81		Had a JD sentence to OSR for armed robbery. Current sentence includes 5 chgs.
12	1	Agg. Rob Att. Agg. Murder		4-25	3/81	2000	11/80		Had a JD sentence to OSR for Armed Robbery
13	6	Aggravated Assault C.C.W...	Burg. Escape Larceny	1 1/2-5	11/77	8/81	3/77	8/80	Will probably not be released at 1st parole hearing.
14	4	Armed Rob. & Escape	Robbery Burglary	16-60	8/78	2025	12/75	12/83	Current sentence incl. 4 chgs. including prison riot & hold. hostages. (Treated as a consec. sent. under HB 313)
15	3	Agg. Robbery	Burglary Night Season	24-117	9/84	2075	11/80	11/84	Current sentence includes 6 chgs. 2 of them a prior parole violation. At OSR as a JD.

To: J. P. Canney, Chief - Division of Institutions

From: John Beach, Administrator - Bureau of Statistics & Research

This report attempts to determine the effects of proposed H.B. 313 which specifies DEFINITE sentence lengths for criminal convictions.

References to inmates in this report will be by identifiable groups and subgroups. The groups will consist of the following three categories:

- Penitentiary inmates - those inmates who are incarcerated to the penitentiary by decision of the court for their first felony commitment, or by reason of being over the age of 30 at time of the offense. This is approximately 40% of the total population in the penitentiary system.
- Repeat offenders - those inmates who are incarcerated for at least the second time for a felony conviction. This group consists of the remaining 60% of the total population in the penitentiary system.
- Reformatory inmates - those inmates age 21 to 30 who are incarcerated for their first felony of any offense other than aggravated murder by discretion of the court, or who are 18 through 20 years of age. This group consists of 100% of the total population in the reformatory system.

The three above groups are further divided into the following subgroups:

1st degree, 2nd degree, 3rd degree and 4th degree, life sentence for aggravated murder, and other life sentence felons. The degree of felony, where multiple offenses are involved, refers to the most serious offense.

Female inmates are excluded from this study due to the small sample size.

However, findings of this study will have relevance to this group of inmates.

Time to be served is defined as the total amount of time incarcerated in a state institution from admission date to the release date, including accumulated jail time credit. (Known results in respect to time served under present release practices are compared against anticipated results under H. B. 313).

For comparison purposes Table A summarizes the differences between the sentencing structure as implemented presently, and the structure as proposed by H.B. 313.

The left side of the table indicates the degree(s) of felony which are applicable for the sentence in terms of years. This graphically presents both the possible range of sentences for each felony degree, and the amount of overlap (or lack of overlap) in the range for the various groups in inmates.

The right-hand side presents the minimum amount of time to be served before becoming eligible for parole or release for all possible minimum sentences by group in inmates as specified in both H.B. 511 and H.B. 313.

#### DATA SPECIFICATIONS

- Data were collected for all 484 admissions to the penitentiary system (both 1st and repeat offenders) for the two months period of August and September 1976.
- The admission data are representative of the annual intake population in terms of distribution for the minimum sentences within the degrees of offenses.
- Of those inmates admitted during the year, 71.7% were convicted of a single offense, or multiple offenses with concurrent sentences. The percent distribution of minimum sentences and degree of offenses used in this report are based on the distribution of this 71.7%, thereby eliminating compound or conflicting data due to the accumulative effect of consecutive sentences.

TABLE A

Sentence By Degree Of Felony				Minimum Months Served For Eligibility		
SENTENCE IN YEARS	CURRENT	PROPOSED		H. B. 511		H.B.. 313 RELEASE
	F E L O N Y	D E G R E E		CURRENT INITIAL	PAROLE...CONSIDERATION	(WITH 100% GOOD TIME CREDIT)
		1ST OFFENSE	REPEAT	REFORMATORY	PENITENTIARY	
1/2	4			5	5	-
1	4 3	4		10	10	6
1 1/2	4 3			12	14	-
2	4 3 2	4 3		13	19	12
3	3 2	4 3 2		16	26	18
4	2 1	3 2	4 3	19	34	24
5	2 1	2	4 3	22	40	30
6	1	2 1	4 3	26	46	36
7	1	2 1	4 3 2	29	53	42
8		1	4 3 2	32	61	48
9		1	2	35	68	54
10		1	2	38	76	60
11			2	38	84	66
12			1	38	91	72
13			1	38	99	78
14			1	38	106	84
15			1	38	114	90
16			1	38	120	96
17			1	38	120	102
18			1	38	120	108
10	Life				120	150
15	Life (Ag. Mur)				150	150
25		Life	Life			150

Tables B1 and B2 provide the distribution of offenders in each degree group and the distribution of minimum sentences with each group for the Reformatory and Penitentiary Offenders. These distribution percentages, based on FY 1976 admissions, are used in this report for determining the number of inmates in each degree group.

TABLE B<sub>1</sub>  
REFORMATORY  
Intake Percentages of Minimum Sentence  
Within Degree Group Under H.B. 511

degree group	% of offenders in group	minimum sentences (years)	% of occurrences under H.B. 511 within each degree sub-group
4th	39%	1/2 1 1 1/2 2	36 43 3 18 100%
3rd	7%	1 1 1/2 2 3	60 8 5 27 100%
2nd	20%	2 3 4 5	75 15 6 4 100%
1st	24%	4 5 6 7	69 12 6 13 100%
Life	.5%	10	N/A
Drugs	.9%	15	N/A
Other	.5%	Misc.	-
	100%		

TABLE B<sub>2</sub>  
PENITENTIARY  
Intake Percentages of Minimum Sentence  
Within Degree Group Under H.B. 511

degree group	% of offenders in group	minimum sentences (years)	% of occurrences under H.B. 511 within each degree sub-group
4th	44%	1/2 1 1 1/2 2	34 39 6 21 100%
3rd	10%	1 1 1/2 2 3	58 9 18 15 100%
2nd	12%	2 3 4 5	55 21 11 13 100%
1st	21%	4 5 6 7	44 15 11 30 100%
Life	4%	-	N/A
Death	1%	-	N/A
Drugs	.8%	-	-
	100%		

- All computed averages used throughout this report are weighted averages, based on the number of inmates in each subgroup. These weighted averages are used in order to present a more realistic picture of the data, based on the actual distribution of inmates within various sub-groups.

- Initial analytic assumptions for this report are based upon liberal implementation of H.B. 313 as follows: (1) That judges, unless otherwise specified, will continue to use discretionary judgment under H.B. 313 in the same manner as they applied the sentencing structure under H.B. 511; and (2) That time to be served as defined for H.B. 313 is based on an inmate accumulating the maximum amount of "good time" for his definite sentence.. Good time, as defined is one day off for each day served, thus one half of the actual sentenced term.
- Tables C1 and C2 (below) illustrate the first method used to determine the average release time for each degree of felony and groups as specified by H.B. 313. This initial method assumed that the same sentence structure will be used as under H.B. 511.

TABLE C<sub>1</sub>

H. B. 511

H. B. 313

## Reformatory Offenders

Frequency By Degree	Min. Sent.	% Dist.	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time
4th (39%)	1 1/2 yr.	36	1 yr.	6 mo.	36	
	1	43	2	12	46	
	1 1/2	3				
	2	18	3	18	18	10.9
3rd (7%)	1	60	2	12	60	
	1 1/2	8	3	18	13	
	2	5				
	3	27	4	24	27	16.0
2nd (20%)	2	75	3	18	75	
	3	15	4	24	7	
			5	30	7	
	4	6	6	36	7	
	5	4	7	42	4	21.5
1st (24%)	4	69	6	36	69	
	5	12	7	42	6	
			8	48	6	
	6	6	9	54	6	
	7	13	10	60	13	41.3
(90%)* Total						

\*The remaining 10% consists of life sentences (.5%), drugs (.9%) and other (.5%) in which the degree of felony could not readily be determined.

TABLE C<sub>2</sub>

H. B. 313

H. B. 511

## Pen. First Offenders

## Penitent/Repeat Offenders

Frequency By Degree	Min. Sent.	% Dist.	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time
4th (44%)	1 1/2 yr	34	1 yr.	6 mo.	34		4 yr.	24 mo.	34	
	1	39	2	12	45		5	30	15	
	1 1/2	6					6	36	15	
	2	21	3	18	21	11.2	7	42	15	
							8	48	21	34.4
3rd (10%)	1	58	2	12	58		4	24	58	
	1 1/2	9	3	18	27		5	30	9	
	2	18					6	36	9	
	3	15	4	24	15	15.4	7	42	9	
							8	48	15	30.8
2nd (12%)	2	55	3	18	55		7	42	55	
	3	21	4	24	10		8	48	10	
			5	30	11		9	54	11	
	4	11	6	36	11		10	60	11	
	5	13	7	42	13	25.0	11	66	13	49.0
1st (21%)	4	44	6	36	44		12	72	44	
	5	15	7	42	9		13	78	15	
	6	11	9	54	9		14	84	15	
			8	48	8		15	90	11	
	7	30	10	60	30	46.3	16	96	11	
							17	102	30	
							18	108	30	87.2
(87%)* Total										

\*The remaining 13% consists of life sentences (4%), drugs (8%) and death (1%) in which the degree of felony could not readily be determined.



The current distribution of minimum sentences were converted to the H.B. 313 sentences as the lowest to the lowest and the highest to the highest. The remaining sentences were either combined or directly converted to comparable sentences. Average release was then computed based on the percent distribution within each degree.

- The second comparison is similar, except it assumes that all sentences issued will be the definite sentence stated in H.B. 313, or the court will find aggravating circumstances only. No other variables or assumptions are changed.
- Tables C3 and C4 present the method used to determine average sentence lengths before release for the second analytic comparison.

TABLE C<sub>3</sub>

H. B. 511							H. B. 313						
							Reformatory Offenders						
Frequency	Min. Sent.	% Dist.	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time	Frequency	Min. Sent.	% Dist.	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time
4th (9%)	1 1/2 yr	36	1 yr	6 mo	0			1 1/2 yr	34	1 yr	6 mo	0	
	1	43	2	12	82			1	39	2	12	79	
	1 1/2	3	3	18	18	13.1		1 1/2	6	3	18	21	
	2	18						2	21				
3rd (7%)	1	60	2	12	0			1	58	2	12	0	
	1 1/2	8	3	18	73			1 1/2	9	3	18	85	
	2	5	4	24	27	19.6		2	18				
	3	27						3	15	4	24	15	
2nd (20%)	2	75	3	18	0			2	55	3	18	0	
	3	15	4	24	0			3	21	4	24	0	
	4	6	5	30	90			4	11	5	30	76	
	5	4	6	36	6	30.8		5	13	6	36	11	
			7	42	4					7	42	13	
1st (24%)	4	69	6	36	0			4	44	6	36	0	
	5	12	7	42	0			5	15	7	42	0	
	6	6	8	48	81			6	11	8	48	59	
	7	13	9	54	6			7	30	9	54	11	
			10	60	13	49.9				10	60	30	
90%* Total													

\*The remaining 10% consists of life sentences (.5%), drugs (9%) and other (.5%) in which the degree of felony could not be readily be determined.

TABLE C<sub>4</sub>

H. B. 511							H. B. 313						
							Pen First Offenders						
Frequency	Min. Sent.	% Dist.	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time	Frequency	Min. Sent.	% Dist.	Actual Sent.	Min. Rel. Time	% Dist.	Aver. Rel. Time
4th (44%)	1 1/2 yr	34	1 yr	6 mo	0			1 1/2 yr	34	1 yr	6 mo	0	
	1	39	2	12	79			1	39	2	12	79	
	1 1/2	6	3	18	21	13.3		1 1/2	6	3	18	21	
	2	21						2	21				
3rd (10%)	1	58	2	12	0			1	58	2	12	0	
	1 1/2	9	3	18	85			1 1/2	9	3	18	85	
	2	18						2	18				
	3	15	4	24	15	18.9		3	15	4	24	15	
2nd (12%)	2	55	3	18	0			2	55	3	18	0	
	3	21	4	24	0			3	21	4	24	0	
	4	11	5	30	76			4	11	5	30	76	
	5	13	6	36	11	32.2		5	13	6	36	11	
			7	42	13					7	42	13	
1st (21%)	4	44	6	36	0			4	44	6	36	0	
	5	15	7	42	0			5	15	7	42	0	
	6	11	8	48	59			6	11	8	48	59	
	7	30	9	54	11			7	30	9	54	11	
			10	60	30	52.3				10	60	30	
87%* Total													

\*The remaining 13% consists of life sentences (4%), drugs (8%) and death (1%) in which the degree of felony could not readily be determined.

For this method, it was assumed that the sentencing courts do not find sufficient mitigating circumstances to issue the minimum sentences in each degree category. Thus that percent of inmates with sentences less than the definite sentence as stated in H.B. 313 have been redistributed upward to the middle category. The average release time was then computed based on this modified distribution within each degree group.

#### DISCUSSION

The actual amount of time served by an individual in the institutional environment is determined by several factors. Under H.B. 511, these factors include the length of the minimum sentence, the inmates' behavior while incarcerated, and the decision of the Parole Board.

The most common types of releases to the community are briefly described below. Eligibility for release via one of these program is determined by law, while the actual release and the amount of time to be served prior to release is determined by the appropriate authority.

- 1) Suspended Sentence, or Shock Probation. Selected first commitment felony offenders, at the order of the sentencing court, can be released after serving between 30 to 130 days. This program, implemented in 1965, will be unaffected by H.B. 313.
- 2) Shock Parole. Selected first commitment felony offenders, at the discretion of the Parole Board, can be released to parole status after serving six months. This program has been operational since 1974, and will be retained by H.B. 313.
- 3) Regular Parole. Each inmate not released by one of the above two programs, is eligible for release after having served a required amount of time. The required amount of time is based upon his sentence minimum minus diminution of sentence credit which differs for the reformatory and the penitentiary systems as illustrated in Table A. When an inmate has

his initial Parole Board hearing, the Board may either release him or continue his period of incarceration. If parole is granted, the inmate will usually be released within 15 days. When continued or "flopped", the board specifies a given amount of time before the next parole board hearing. At the second, and any subsequent hearing, the Board again has a choice of paroling or continuing the inmate to some future date. This process is repeated until the inmate is either released on parole or until he has served his maximum sentence. The latter consequence is rare during the past decade and a half as compared to prior decades.

H.B. 313, as currently proposed, does not modify either the requirements or the overall definition of shock probation and shock parole. Thus, it is assumed that the number of inmates released via these programs and the actual time served before release will not vary significantly from the present.

Table E presents the percentage of inmates released via these programs, by degree of felony, and the weighted average amount of time served prior to release. Because no change in the amount of time to be served is anticipated for these types of releases, they will be omitted from the remaining comparison tables.

TABLE E

Degree of Felony	Reformatory				Penitentiary First Offense				Penitentiary Repeat Offense			
	Sk. Probation		Shock Parole		Sk. Probation		Shock Parole		Sk. Probation		Shock Parole	
	Ave.		Ave.		Ave.		Ave.		Ave.		Ave.	
	% in Degree	Time Served	% in Degree	Time Served	% in Degree	Time Served	% in Degree	Time Served	% in Degree	Time Served	% in Degree	Time Served
4	56.8	2.6	81.0	5.9	57.1	3.0	80.0	7.3	0.0	-	0.0	-
3	6.2	2.3	14.3	5.6	14.3	3.0	0.0	-	0.0	-	0.0	-
2	24.7	3.1	0.0	-	17.9	3.4	20.0	15.0	0.0	-	0.0	15.0
1	12.3	3.4	0.0	-	10.7	4.8	0.0	-	0.0	-	0.0	-
Other	0.0	-	4.7	5.5	-	-	0.0	-	0.0	-	0.0	-
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% of Total Releases	100%	2.8	100%	5.8	100%	3.3	100%	8.8	0.0	-	0.0	-
	28.1%		7.3%		32.4%		5.5%					

## FINDINGS

Tables one through three, attached, present a numerical chart of the initial analytic comparison of the anticipated effect of H.B. 313. Tables 4, 5, and 6 provide the secondary analysis under the assumption that harsher sentences will be mandated.

The first set, tables one, two and three, show the comparison of actual release data under H.B. 511 and the amount of increase or decrease expected with H.B. 313 assuming that the distribution of felony commitments, and the distribution of the sentences given within each degree group remain constant.

## REFORMATORY

For the reformatory system (table 1) it is noted that the majority of the inmates (45.8%) are released after a continuance by the parole board. These inmates have served an average of 22.2 months. H.B. 313 is expected to decrease this group by an average of 4 months. For those inmates released at their first hearing (18.8%), an increase in time served of almost 9 months is anticipated.

While the number of third degree felons is smaller than the other degree groups, they will be the most drastically affected. For those third degree felons released at their first hearing, their amount of increased time is less than the others. For those continued, the amount of decrease in time served is disproportionately less (-18.3 months) than the other three degree groups.

Overall the amount of change anticipated for the reformatory inmate averages a decrease in time served of 1.2 months. It should be noted that those inmates who are viewed as release ready by both the court and the parole authority will be penalized, whereas those deemed not ready until a later time will be the beneficiaries. This occurs for all degree groups. It is anticipated that an overall net gain of 237 inmates will accumulate over a 2 year period. This represents a 6.4% increase in the number of inmates incarcerated.

### PENITENTIARY FIRST OFFENDERS

The total number of admissions into the penitentiary system for 1976 who were first time offenders was 1232. Of this number, 21.8% were released at their first parole hearing after serving an average time of 20.9 months. The 43.5% continued cases were released after serving 42.3 months average for an overall average of time served of 35.2 months. It is anticipated that H.B. 313 will decrease this group of inmates time by an average of 13.1 months.

Each degree group, regardless of the type of release, will receive a decrease in the served sentence except those first degree felons released at their first hearing. This sub-group will have an increase of 3.9 months.

Those inmates convicted of a first degree felony and not released at their first hearing, presently serve the longest amount of time. Under H.B. 313, it is expected that this group will also serve the longest amount of time, however, they will also receive the most number of months reduction in time served at an average of -13.5 months.

Overall, the penitentiary first time offender will receive an average decrease in time served of -13.1 months. It is anticipated that the total net difference will be a decrease of 766 inmates over a two year period. This represents a 27% reduction of inmates in this sub-group.

### PENITENTIARY REPEAT OFFENDERS

Sixty percent of the penitentiary commitments have at least one previous felony commitment. These repeat offenders numbered 1849 for FY 1976. H.B. 313 provides separate sentencing structure for these repeat offenders with somewhat longer sentences than the first time offenders. H.B. 511 does not provide a similar sentencing structure for multiple offenders.

As anticipated, most repeat offenders sentenced under H.B. 313 can anticipate an increase in the amount of time to be served. Under the current structure and release procedures, this group of inmates actually serve an average of one

month less than the first offender, however, no clear distinction is made between these two groups. With the implementation of H.B. 313, the average increase in time served would be 14.5 months. For the majority of these inmates (60.3% released after a parole continuance) the increase would be six and one half months. However, 36.5% are released at the first parole hearing, and their increase in time to be served would average almost 28 months.

Overall, the difference in time for the repeat offender averages out to an increase of 14.5 months, or 1883 inmates over a four year period. This increase represents a 44% rise in this portion of the penitentiary inmates.

Tables 4, 5, and 6 are a comparison of the current sentence structure as compared to the structure in H.B. 313 with the following assumption: Sentenced felons should be made to serve more time before being released. Thus, H.B. 313 states a definite number of years to be sentenced for the degree of felony, with longer sentences for the repeat offender.

Following this logic of harsher sentences, the next set of tables assumes that judges will not find sufficient mitigating circumstances to justify giving the lower possible sentence for each degree of felony group as reflected in current practice.

It is not the intent of this report to presuppose how judges will operate, but for comparison purposes, the following sentencing structure is used: That percent of felons who, by conversion of equal distribution of sentences within each degree, were given less than the stated definite sentence, were moved up to the definite sentence for that degree. This procedure is illustrated in Table b2. Again, weighted averages were calculated for each group using this new distribution.

#### REFORMATORY

For those reformatory inmates released after a continuance and convicted of a fourth degree felony, their average time would decrease by only 1.5 months

compared to the present release average. Third degree continued felons would decrease their time by an average of almost 15 months (-14.7) with first and second degree groups serving longer time of +8.7 and +4.3 months respectively.

Those inmates who presently are released at their first hearing would have an average increase in time of over one year (14.3 months).

Overall, the weighted average increase for the reformatory system would be 5.2 months, or 1033 inmates over a two year period. This increase is equivalent to 28% of the reformatory population.

#### PENITENTIARY FIRST OFFENDERS

Under the conditions stated above, all penitentiary first offender degree groups would realize a decrease in time served, with the second degree felon receiving the smallest decrease of -4.0 months. This compares with a decrease of 11.0 months for third degree and -13.8 months for the first degree group.

As a total group, the penitentiary first offenders can expect a decrease in time of 9.2 months, or 538 inmates over a two year period. This represents a 19% decrease in this segment of the population.

#### PENITENTIARY REPEAT OFFENDERS

Those repeat offenders, like the reformatory inmates, will have an increase in time served. The largest number of inmates (44%) are incarcerated for a fourth degree felony conviction. This group will also receive a relatively large increase in time served with +18.2 months. As compared to second and first degree felons whose increase will be 20.7 months and 32 months respectively.

Those fourth degree felons released at their first hearing will have an decrease in time over the third degree felon released at his first hearing of four months. The same pattern exists for those released after being continued, where the difference is made dramatic at 11 months of an increase in sentence for fourth degree

Because the majority of the repeat offenders (96.8%) are released to parole

instead of shock probation or shock parole, the increase in time to be served for this group has a greater impact on the departmental total.

The overall average increase in time for this entire group is 21.0 months, or an increase in the population of 2717 inmates, or 63% over a four and one half year period.



### SUMMARY

The findings from the two analytical comparison of the current sentence structure and the definite sentencing structure as proposed with H.B. 313 indicate several areas for serious consideration.

- First, the most liberal assumption possible, that the distribution of degrees and sentences within each degree remain the same, will cause an increase in the number of inmates incarcerated in state facilities. Assuming that no other conditions are varied, the increase over a four year period is estimated at 1,354 inmates, or 11.5% over the population at the end of FY 76.
- As a group as defined within this report, the penitentiary first offenders will, on the average, receive a decrease in time served of 13.1 months. However, it must be noted that those inmates which the courts deemed to be the least serious (3rd and 4th degree felons) and the Parole Board concurred by releasing at the first hearing, will have their time increased. Those inmates who were continued (all felony degrees, including first and second) will receive large decreases. These decreases are as much as 59% of their present time served for third degree felons, and 40% decrease for the most serious first degree felons. (See Table No. 2).
- The other two predefined groups, reformatory and penitentiary repeat offenders, will, on the average, receive increases of time served. For the reformatory inmates, the identical situation exists as stated above. Those inmates presently released at the first hearing can expect an increase of 8.7 months. While the first degree group received the largest increase (19.7 months), the other three degree groups do not increase in proportion to the seriousness of the degree of felony. The reformatory offender who was given a continuance will receive a slight decrease in time of about two months (1.9), however, the relationship of the amount of change also is not proportional to the

seriousness of the felony degree.

These changes in the amount of time to be served, with the exception of 3rd degree felons released after being continued, are indicative of the elimination of "reformatory time" for first time youthful offenders.

The last group, the penitentiary repeat offenders will realize the most drastic increase in time served. Again the least serious of this group, the fourth degree felon receives a larger proportion of increase than the more serious offender. The fourth degree felon currently released at his first hearing will receive 216% increase in time served. All fourth degree felons released to parole will receive an average of 66% increase, and the first degree felon an increase of 36% (See Table No. 3).

The following chart summarizes the average changes expected for the three groups and illustrates the impact of these changes on the inmate population until such time as the effect of the change stabilizes.

The beginning inmate population count used is for the end of FY 1976, the period of this study, for the total male population.

Table F-1

	<u>Population 7/1/76</u>	<u>1st Year Change</u>	<u>Total</u>	<u>2nd Year Change</u>	<u>Total</u>	<u>3rd Year Change</u>	<u>Total</u>	<u>4th Year Change</u>	<u>Total</u>
Reformatory	4,691	+118	4,809	+119	4,928	-	4,928	-	4,928
Penitentiary, 1st Offense	2,846	-383	2,463	-383	2,080	-	2,080	-	2,080
Penitentiary, Repeat	<u>4,269</u>	<u>+471</u>	<u>4,740</u>	<u>+471</u>	<u>5,211</u>	<u>+471</u>	<u>5,682</u>	<u>+470</u>	<u>6,152</u>
Total	11,806	+206	12,012	+207	12,219	+471	12,690	+470	13,160
% Change		+1.7%		+1.7%		+3.9%		+3.7%	
% Total Change									+11.4%

The second analytical assumption stated earlier implied harsher sentencing from the courts. This would also have an additional impact on the prison population, by increasing the average time served for all inmates. Since only the lower categories of the possible sentences under H.B. 313 were eliminated, and those inmates assumed to have been given the "middle" on definite sentences as state, the increase in time is proportionate among all groups. The actual number of man-months is increased by this assumption. Table F-2 illustrates the overall effect this type of sentencing would have on the institution population.

Table F-2

	<u>Population 7/1/76</u>	<u>1st Year Change</u>	<u>Total</u>	<u>2nd Year Change</u>	<u>Total</u>	<u>3rd Year Change</u>	<u>Total</u>	<u>4th Year Change</u>	<u>Total</u>
Reformatory	4,691	+413	5,104	+413	5,517	+207	5,724	-	5,724
Penitentiary, 1st Offense	2,846	-282	2,564	-282	2,282	-	2,282	-	2,282
Penitentiary, Repeat	<u>4,269</u>	<u>+679</u>	<u>4,948</u>	<u>+679</u>	<u>5,627</u>	<u>+679</u>	<u>6,306</u>	<u>+680</u>	<u>6,986</u>
Total	11,806	+810	12,616	+810	13,426	+886	14,312	+680	14,992
% Change		+6.7%		+6.4%		+6.6%		+4.8%	
% Total Change									+27.0%

For the preceding analytical comparison, it was assumed that all inmates would receive 100% of the "good time" credit as specified in H.B. 313. While the Rules and Regulations specifying reasons for loss, and the amount of time lost have yet to be defined, it is anticipated that such loss of good time will have a significant impact on the number of persons incarcerated.

For purposes of comparison, tables reflecting the amount of increase for good time loss are included.

Tables 1 through 3, the most liberal interpretation of the proposed sentencing structure are used as the basis for Table 7. Tables 4 through 6, a conservative approach of harsher sentences, are the basis for Table 8.

Both of these tables illustrate the increase in time served and the increased net gain of men per year for each 10% of good time credit lost. The initial net gain or loss of men per year due to H.B. 313 are not included in tables 7 and 8.

Summarizing the preceding findings, the following changes in the inmate population can be anticipated with the implementation of H.B. 313.

- 1) With 100% good time credit, and a liberal sentencing structure by the courts, an increase of 11.4% or 1354 inmates will be expected over a four year period.
- 2) With 90% good time, and a liberal sentencing structure by the courts, an increase of 22% or 2868 inmates will be expected over the same four year period.
- 3) With 100% good time, and a conservative sentence structure by the courts, an increase of 27% or 3186 inmates will be expected over a four and one half year period.
- 4) With 90% good time, and a conservative sentence structure by the courts, an increase of 39% or 4590 inmates will be expected over a four and one half year period.

These increases in the population of incarcerated individuals within the State Correctional Facilities are the anticipated results of the new definite sentencing structure only. Other factors which presumably will have a direct affect on population size, such as holding for pre-sentence investigation, conversion of the sentences of those inmates incarcerated at the time H.B. 313 becomes effective, and the steadily increasing number of new admissions over the past several years are not reflected in the above finding.

TABLE NO. 1 REFORMATORY

Total Admissions for Group for FY 1976 = 4084

Category	Admission % By Felony Degree	HB 313 Average time before release (100% gd time)*	First Hearing Releases under HB 511 (18.8%)			Released after Continuance under HB 511 (45.8%)			Total releases with Anticipated Change under HB 511 (64.6%)		
			Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain (†)
			Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(men per year)
4th	39%	10.9 mo.	7.0	+3.9	+1166	14.6	-3.7	-2701	12.4	-1.5	
n=	1593			299	+97		730	-225		1029	-128
3rd	7%	16.0 mo.	12.4	+3.6	+194	34.3	-18.3	-2397	27.9	-11.9	
n=	286			54	+16		131	-200		185	-184
2nd	20%	21.5 mo.	14.7	+6.8	+1047	26.5	+5.0	+1870	23.1	+5.5	
n=	817			154	+87		374	+156		528	+243
1st	24%	41.3 mo.	21.6	+19.7	+3625	41.2	+0.1	+50		+5.8	
n=	980			184	+302		449	+4	35.5	633	+306
case	90%	21.8 mo.	13.2	+8.7		25.9 <sup>a</sup>	-1.9		22.2	+1.2	
average**	3676			691	+502		1684	-265		2375	+...

average time before release (H.B. 313) based on present admission distribution - See Table C-1.

The remaining 10% consists of life sentences (.5%), drugs (9%) and other (.5%) in which the degree of felony could not readily be determined.

CONCLUSION: Expected net gain of 237 Reformatory inmates in 23.4 months. Approximately a 3.2% a year rate of increase for two years.

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TABLE NO. 2 PENITENTIARY FIRST OFFENDERS

Total Admissions for Group for FY 1976 = 1232

only ree	Admission % By Felony Degree	HB 313 Aver time before release (100% gd tme)*	First Hearing Releases under HB 511 (21.8%)			Released after Continuance under HB 511 (43.5%)			Total releases with Anticipated Change under HB 511 (65.3%)		
			Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain (r)
			Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(men per year)
4th	44%	11.2 mo.	10.9	+0.3	+35	26.6	-15.4	-3634	21.4	-10.2	
n=	542			118	+3		236	-303		354	-300
3rd	10%	15.4 mo.	14.9	+0.5	+14	37.6	-22.2	-1177	29.9	-14.5	
n=	123			27	+1		53	-98		80	-97
2nd	12%	25.0 mo.	25.4	-0.4	-13	41.6	-16.6	-1062	36.2	-10.9	
n=	148			32	-1		64	-89		96	-90
1st	21%	46.3 mo.	42.4	+3.9	+218	77.8	-31.5	-3560	66.1	-19.8	
n=	259			56	+18		113	-297		169	-279
case c	87%	22.1 mo.	20.9	+1.1		42.3	-20.2		35.2	-13.1	
age**	1072			233	+21		466	-787		699	-766

average time before release (H.B. 313) based on  
present admission distribution - See Table C-2.

The remaining 13% consists of life sentences (4%), drugs  
(8%), death (1%) in which the degree of felony could not  
readily be determined, or not applicable.

CONCLUSION: Expected net less of 766 Penitentiary First  
Offenders in 22.1 months. Approximately a  
13.5% a year rate of decrease for two years.

TABLE NO. 3 PENITENTIARY REPEAT OFFENDERS

Total Admissions for Group for FY 1976 = 1849

ony ree	Admission % By Felony Degree	HB 313 Aver time before release (100% gd time)*	First Hearing Releases under HB 511 (36.5%)			Released after Continuance under HB 511 (60.3%)			Total releases with Anticipated Change under HB 511 (96.8%)		
			Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain (†)
			Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(men per year)
4th	44%	34.4 mo.	10.9	+23.5	+6980	26.6	+7.8	+3830	20.7	+13.7	
n=	814			297	+582		491	+319		788	+901
3rd	10%	30.8 mo.	14.9	+15.9	+1081	37.6	-6.8	-755	29.0	+1.8	
n=	185			68	+90		111	-63		179	+27
2nd	12%	49.0 mo.	25.4	+23.6	+1912	41.6	+7.4	+992	35.5	+13.5	
n=	222			81	+159		134	+83		215	+242
1st	21%	87.2 mo.	42.4	+44.8	+6362	77.8	+9.4	+2200	64.4	+22.8	
n=	388			142	+530		234	+183		376	+713
average	87%	48.7 mo.	21.0	+27.8		42.3	+6.5		34.2	+14.5	
n=	1609			588	+1361		970	+522		1558	+1883

average time before release (H.B. 313) based on present admission distribution - See Table C-2.

The remaining 13% consists of life sentences (4%), drugs (8%), and death (1%) in which the degree of felony could not readily be determined, or not applicable.

CONCLUSION: Expected net gain of 1883 Penitentiary Repeat Offenders in 48.7 months. Approximately a 11% a year rate of increase for four years.

TABLE NO. 4 REFORMATORY

Total Admissions for Group for FY 1976 = 4084

Felony Degree	Admission % By Felony Degree	HB 313 Average time before release (100% gd time)*	First Hearing Releases under HB 511 (18.8%)			Released after Continuance under HB 511 (45.8%)			Total releases with Anticipated Change under HB 511 (64.6%)		
			Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain (T)
			Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(men per year)
4th	39%	13.1 mo.	7.0	+6.1	+1824	14.6	-1.5	-1095	12.4	+0.7	
n=	1593			299	+152		730	-91		1029	+61
3rd	7%	19.6 mo.	12.4	+7.2	+389	34.3	-14.7	-1926	28	-8.3	
n=	286			54	+32		131	-161		185	-129
2nd	20%	30.8 mo.	14.7	+16.1	+2479	26.5	+4.3	+1608	23	+7.8	
n=	817			154	+207		374	+134		528	+341
1st	24%	49.9 mo.	21.6	+28.3	+5207	41.2	+8.7	+3906	35.5	+14.4	
n=	980			184	+434		449	+326		633	+760
Case	90%	27.4 mo.	23.0	+14.3		25.9	+1.5		22.1	+5.2	
age**	3676			691	+825		1684	+208		2375	+1033

average time before release (H.B. 313) based on  
present admission distribution - See Table C-3.

The remaining 10% consists of life sentences (.5%), drugs  
(9%) and other (.5%) in which the degree of felony could  
not be determined.

CONCLUSION: Expected net gain of 1033 Reformatory inmates  
in 27.3 months. Approximately a 14% a year  
rate of increase for two and one half years.



TABLE NO. 5 PENITENTIARY FIRST OFFENDERS

Total Admissions for Group for FY 1976 = 1232

Felon Degree	Admission % By Felon Degree	HB 313 Average time before release (100% gd time)*	First Hearing Releases under HB 511 (21.8%)			Released after Continuance under HB 511 (43.5%)			Total releases with Anticipated Change under HB 511 (65.3%)		
			Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain (†)
			Served (months)	Change (months)	(Gross Total) (men per year)	Server (months)	Change (months)	Gross Total (men per year)	Server (months)	Change (months)	(men per year)
4th	44%	13.3 mo.	10.9	+2.4	+283	26.6	-13.3	-3139	21.4	-8.1	
n=	542			118	+24		236	-262		354	-238
3rd	10%	18.9 mo.	14.9	+4.0	+108	37.6	-18.7	-991	30.0	-11.0	
n=	123			27	+9		53	-83		80	-74
2nd	12%	32.2 mo.	25.4	+6.8	+218	41.6	-9.4	-602	36.2	-4.0	
n=	148			32	+18		64	-50		96	-32
1st	21%	52.3 mo.	42.4	+9.9	+554	77.8	-25.5	-2882	66.1	-13.8	
n=	259			56	+46		113	-240		169	-194
Release type	87%	26.0	21.0	+5.0		42.3	-16.3		35.2	-9.2	
Average**	1072			233	+97		466	-635		699	-538

Average time before release (H.B. 313) based on present admission distribution - See Table C-4.

CONCLUSION: Expected net loss of 538 Penitentiary First Offenders in 26 months. Approximately a 9.5% a year rate of decrease for two years.

\*The remaining 13% consists of life sentences (4%), drugs (8%) and death (1%) in which the degree of felony could not readily be determined, or not applicable.

TABLE NO. 6 PENITENTIARY REPEAT OFFENDERS

Total Admissions for Group for FY 1976 = 1849

Felony Degree	Admission % By:	HB 313 Average time before release (100% gain time)*	First Hearing Releases under HB 511 (36.5%)			Released after Continuance under HB 511 (60.3%)			Total releases with Anticipated Change under HB 511 (96.8%)		
			Average Time..	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain	Average Time	Expected Amount	Expected Net Gain (T)
			Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(Gross Total) (men per year)	Served (months)	Change (months)	(men per year)
4th	44%	38.9 mo.	10.9	+28.0	+8316	26.6	+12.3	+6039	20.7	+18.2	
n=	814			297	+693		491	+503		788	+1196
3rd	10%	38.9 mo.	14.9	+24.0	+1632	37.6	+1.3	+144	29.0	+10.0	
n=	185			68	+136		111	+12		179	+148
2nd	12%	56.2 mo.	25.4	+30.8	+2495	41.6	+14.6	+1956	35.5	+20.7	
n=	222			81	+208		134	+163		215	+371
1st	21%	96.4 mo.	42.4	+54.0	+7668	77.8	+18.6	+4352	64.4	+32.0	
n=	388			142	+639		234	+363		376	+1002
lease type	87%	55.2 mo.	21.0	+34.2		42.3	+12.9		34.2	+21.0	
erage**	1609			588	1676		970	1041		1558	+2717

Average time before release (H.B. 313) based on present admission distribution - See Table C-4.

CONCLUSION: Expected net gain of 2717 Penitentiary Repeat Offenders in 55 months. Approximately a 14% a year rate of increase for 4.5 years.

\*The remaining 13% consists of life sentences (4%), drugs (8%) and death (1%) in which the degree of felony could not readily be determined, or not applicable.

Table 7

Anticipated increase for each 10% of good time lost for the liberal proposed sentencing structure as defined for Tables 1 through 3.

		H.B. 313 ave. time before release (100% good time)	Increase in time for each 10% loss of good time	Release at first hearing increase in men per year	Continued release increase in men per year	Total increase in men per year for degree group
Reformatory	4	10.9 mo.	1.1 mo.	28	67	95
	3	16.0 mo.	1.6 mo.	7	18	25
	2	21.5 mo.	2.2 mo.	29	68	97
	1	41.3 mo.	4.1 mo.	<u>63</u>	<u>153</u>	<u>216</u>
Total increase in men per year for type of release				127	306	433
Penitentiary	4	11.2 mo.	1.1 mo.	11	44	55
1st Offense	3	15.4 mo.	1.5 mo.	4	7	11
	2	25.0 mo.	2.5 mo.	7	14	21
	1	46.3 mo.	4.6 mo.	<u>22</u>	<u>44</u>	<u>66</u>
Total increase in men per year for type of release				44	109	153
Penitentiary	4	34.4 mo.	3.4 mo.	84	139	223
Repeat	3	30.8 mo.	3.1 mo.	18	29	47
Offender	2	49.0 mo.	4.9 mo.	31	54	85
	1	87.2 mo.	8.7 mo.	<u>103</u>	<u>170</u>	<u>273</u>
Total increase in men per year for type of release				236	392	628

Table 8

Anticipated increase for each 10% of good time lost for the conservative proposed sentencing structure as defined for Tables 4 through 6.

		H.B. 313 ave. time before release (100% good time)	Increase in time for each 10% loss of good time	Release at first hearing increase in men per year	Continued release increase in men per year	Total increase in men per year for degree group
Reformatory	4	13.1 mo.	1.3 mo.	32	79	111
	3	19.6 mo.	2.0 mo.	9	22	31
	2	30.8 mo.	3.1 mo.	39	97	136
	1	49.9 mo.	5.0 mo.	<u>72</u>	<u>187</u>	<u>259</u>
Total increase in men per year for type of release				152	385	537
Penitentiary	4	13.3 mo.	1.3 mo.	12	26	38
1st Offense	3	18.9 mo.	1.9 mo.	4	9	13
	2	32.2 mo.	3.2 mo.	9	17	26
	1	52.3 mo.	5.2 mo.	<u>24</u>	<u>49</u>	<u>73</u>
Total increase in men per year for type of release				49	101	150
Penitentiary	4	38.9 mo.	3.9 mo.	97	160	257
Repeat	3	38.9 mo.	3.9 mo.	22	36	58
Offender	2	56.2 mo.	5.6 mo.	38	63	101
	1	96.4 mo.	9.6 mo.	<u>114</u>	<u>187</u>	<u>301</u>
Total increase in men per year for type of release				271	446	717

**END**