



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
CRIMINAL JUSTICE COUNCIL

STATISTICAL ANALYSIS CENTER
410 FEDERAL STREET, SUITE # 6
DOVER, DELAWARE 19901

Telephone: (302) 739-4626
Fax: (302) 739-4630
SLC: D380B
Web: cjc.delaware.gov/sac

October 5, 2012

MEMORANDUM

To: SENTAC

From: Thomas F. MacLeish, Interim Director, Statistical Analysis Center

Prepared By: Spencer Price, Analyst

Subject: Drug Law Revisions Data

House Bill #19 w/HA 1 + SA 1, became effective 9/1/2011, is a revision of Delaware's drug laws. Analysis of HB19 is difficult because the effective date was just a year prior to this analysis. The following is a preliminary analysis of this bill. Future analysis is required to determine the effects that this bill will have on Delaware's criminal justice system. For this analysis two sets of data were gathered. One year of arrest, disposition, and sentencing data was gathered from 9/1/2010 through 8/31/2011. This data will be referred to as Pre HB19 data. One year of arrest, disposition, and sentencing data was gathered from 9/1/2011 through 8/31/2012. This data will be referred to as Post HB19 data. This analysis compares Pre and Post HB 19 arrest, disposition, and sentencing data. Arrest data was collected from the Criminal Justice Information System (CJIS) and grouped into Pre and Post HB19 arrest data sets by arrest date. Disposition data was collected from the Judicial Information Center (JIC) by disposition date and was then grouped into Pre and Post HB19 data sets by using the date that the crime occurred. Sentencing information was then collected from DELSAC's Superior Court Sentencing Database for the Pre and Post HB19 disposition groups.

Table 1 illustrates the exchange and elimination of new and old drug crimes. By showing the highest volume of arrest charges under each type and class for Pre and Post HB19 arrests, Table 1 can be used to illustrate the increases and decreases in arrests and convictions that are visible in Charts 1, 2, 3, and 4. For example, in Chart 1, it is easy to see that Felony F and G arrests are down in the Post HB19 data set. Table 1 shows the highest volume of arrests in the Pre HB19 data set for those types and classes were for Maintaining a Vehicle and Distribution, Delivery, or Possession within 300 feet of a park and 1000 feet of a school. Those three charges were repealed by HB19 and are now aggravating factors. The absence of those charges makes it easier to understand the decline in arrests for Felony F's and G's in Post HB19. Similarly in the Post HB19 arrest data set, Chart 1 shows a drastic reduction in arrests for Misdemeanor A's, but an increase in Misdemeanor B's and Unclassified Misdemeanors. Table 1 illustrates that the highest volume of Misdemeanor A arrests in the Pre HB19 data set were for Possession of Drug Paraphernalia, which is now a Misdemeanor B under HB19. The highest volume of Misdemeanor B arrests in the Pre HB19 data set were for Possession of Marijuana. Under HB 19, this is now an Unclassified Misdemeanor, and therefore constitutes the increase in Post HB19 arrests for Unclassified Misdemeanors.

Table 1

Arrest Comparisons by Type and Class

<i>Type & Class</i>	<i>Pre HB19</i>	<i>Post HB19</i>
Felony B	Trafficking Coc 10-50g	Tier 5 Poss; Drug Dealing Tier 4; Drug Dealing Tier 2+Agg Factor
Felony C	PWITD Narc Sch II Contr Substance; PWITD Heroin	Drug Dealing+Agg Factor; PWID; Drug Dealing Tier 2
Felony D	Delivery Non Contr Substance	Drug Dealing
Felony E	PWITD Schedule I	Tier 2 Poss
Felony F	Main Vehicle; Main Dwelling; Obtain Contr Substance	Fraud Obtain Contr Substance; Main Drug Property; Tier 1 Poss
Felony G	Dist, Del, or Poss 300' Park; Dist, Del, or Poss 1000' School	Del or Poss Needle or Syringe; Drug Dealing Non Contr Perscription
Misd A	Poss of Drug Paraphernalia; Possession Use Consume Narcotic	Poss Controlled Substance+Agg Factor; Poss Contr Substance
Misd B	Poss of Marijuana	Poss Drug Paraphernalia; Poss Contr Substance
Misd Unclassified	Deliv or Poss of Hypodermic Syringe or Needle	Poss of Marijuana

Arrest data for this analysis is for the most part reliable and complete because this data was gathered on 9/26/2012, providing enough time for a majority of the arrests to be captured on the system during both one year periods. Chart 1 is a comparison of pre and post HB19 arrest events. Arrest events are identified by grouping distinct SBI and date of arrest and then labeling the event by the highest type and class of drug charge in the arrest. Several trends are notable in Chart 1, including an obvious increase in Felony B, Felony D, Misdemeanor B, and Unclassified Misdemeanor arrest events for the Post HB19 data set. Felony C, Felony E, Felony G, and Misdemeanor A arrest events are down considerably for the Post HB19 data set as well. As previously mentioned this increase and decrease for some types and classes could be expected due to the reclassification and repealing of certain drug offenses.

Chart 1

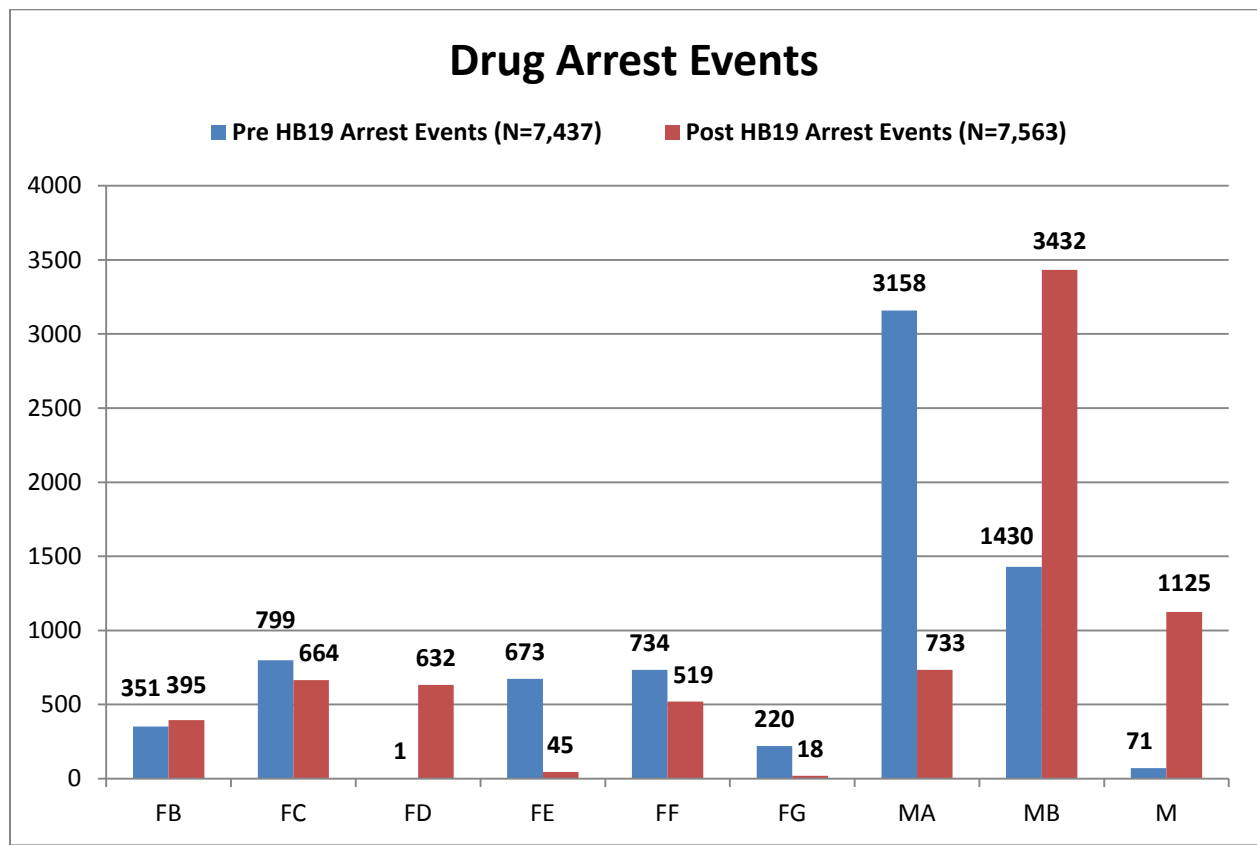
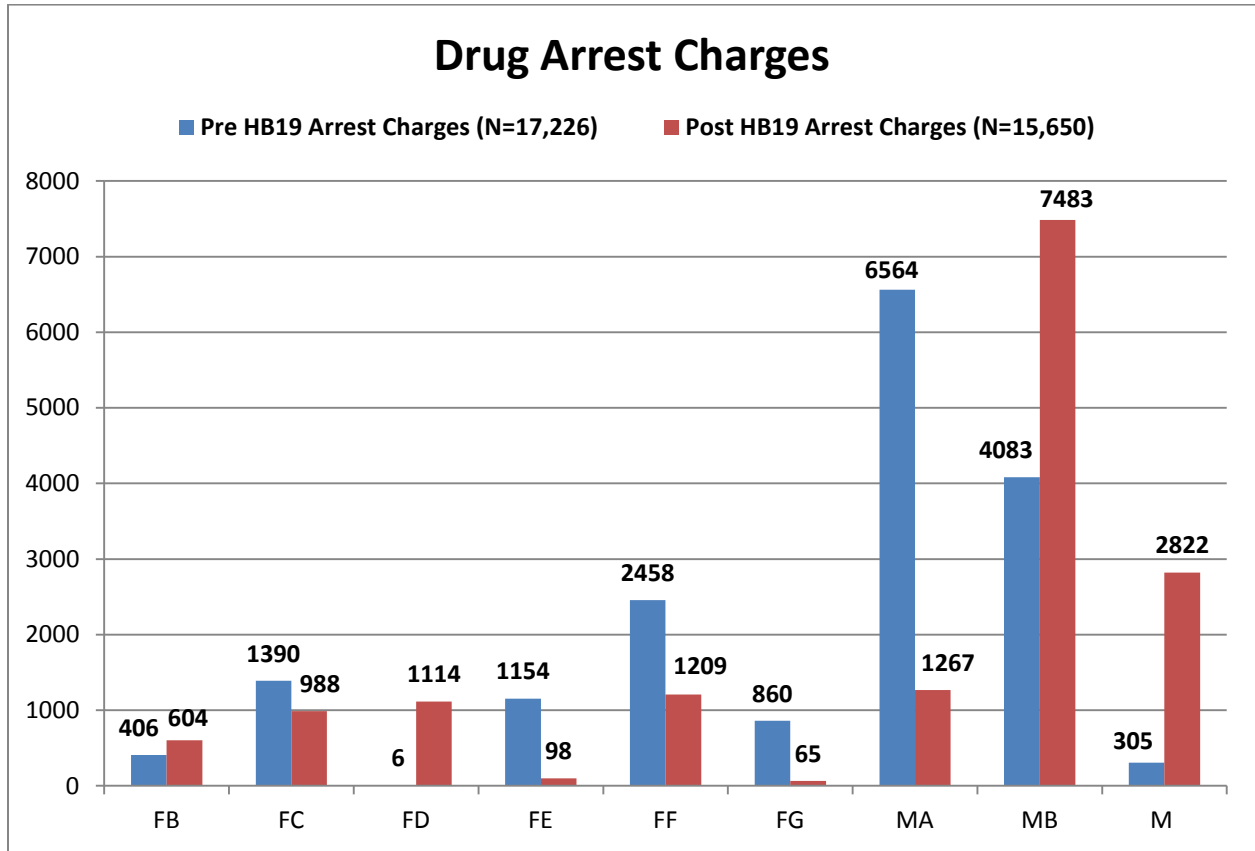


Chart 2 is a more detailed view of total drug arrest charges. Chart 2 shows results similar to Chart 1, with the previously mentioned increases and decreases for all of the same types and classes. Chart 2 also clarifies that there are a greater number of cases in the Post HB 19 data set with multiple drug charges in some types and classes like Felony B. In the Pre HB19 data set, there were 406 charges making up 351 arrest events. In the Post HB19 data set, there are 604 charges making up 395 arrest events, a much higher rate than in the Pre HB19 data set.

Chart 2



As Chart 1 previously showed, Post HB19 Felony B arrest events are up compared to arrests events in Pre HB19. These arrest events can have a substantial impact on prison populations both through detained and sentenced population growth because of the seriousness of the offense. Due to the increase, disposition analysis was done on these Felony B charges. Table 2 compares how Pre and Post HB19 Superior Court filings for Felony B drug charges were disposed. Table 2 shows a substantial decrease in the percentage of Felony B arrest charges being convicted of a Felony B for the Post HB19 data set. There is also a substantial increase in the percentage of Felony B arrest charges being convicted of a Lesser Included Offense (LIO) for the Post HB19 data set. Overall the Post HB19 Felony B charges have a higher guilty rate than the Pre HB19 charges. It is important to note that there are only 15 charges pending in the Pre HB19 data set, as compared to 236 charges pending in the Post HB19 data set. These pending charges can have a considerable impact on the percentages in Table 2. Further analysis is needed to see if these changes remain evident after the pending charges are disposed.

Table 2

<u>All Felony B Drug Charges in Superior Court</u>					
<u>Pre HB19</u>			<u>Post HB19</u>		
<i>Disposition Type</i>	<i>#</i>	<i>% of Total</i>	<i>Disposition Type</i>	<i>#</i>	<i>% of Total</i>
Guilty Felony B	86	21.13%	Guilty Felony B	44	13.54%
Guilty of a LIO	6	1.47%	Guilty of a LIO	38	11.69%
Not Guilty	314	77.15%	Not Guilty	237	72.92%
Diversion	1	0.25%	Diversion	6	1.85%
Total	407		Total	325	

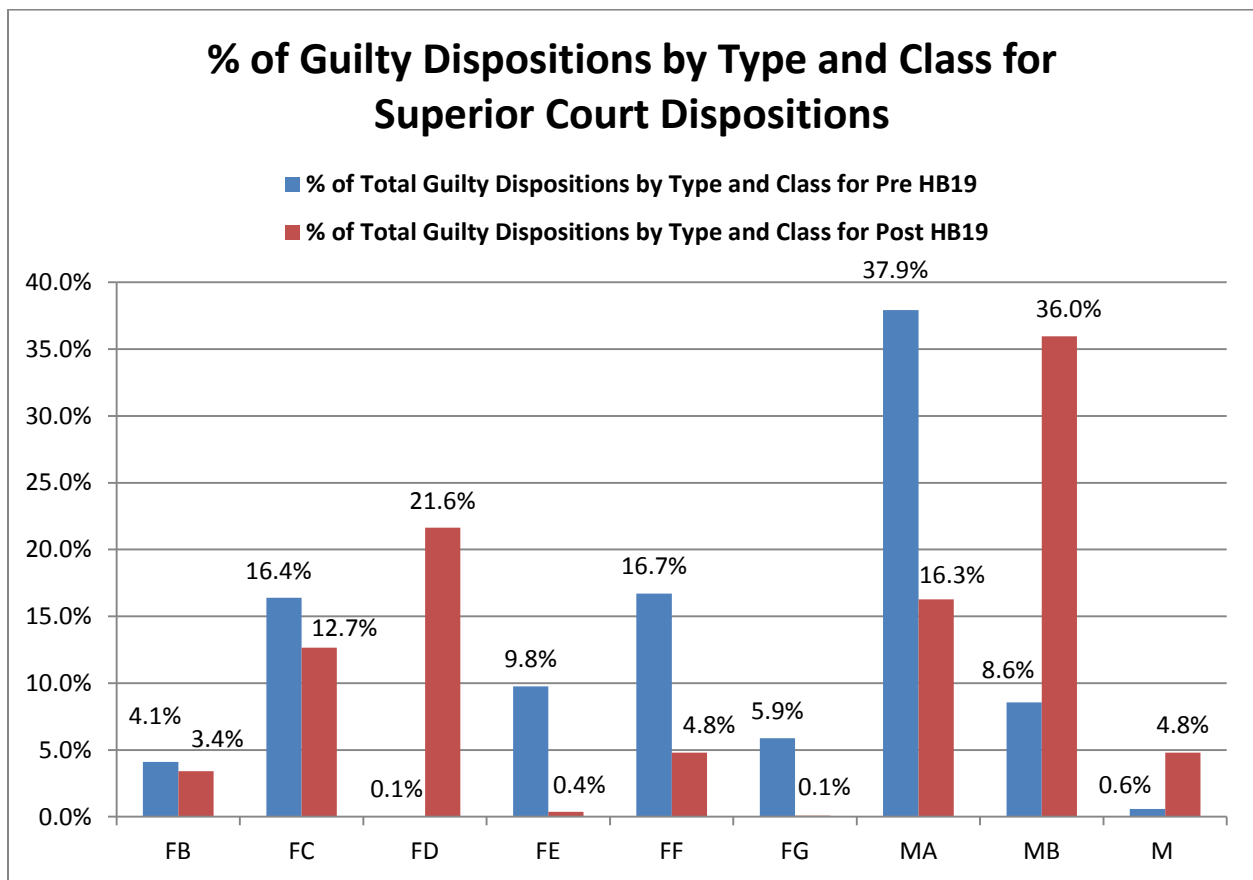
Like Table 2, Table 3 shows that the data set in Post HB19 has a higher percentage (23.02%) of drug charges with guilty dispositions compared to the Pre HB19 data set (19.97%). Table 3 also demonstrates one of the problems in conducting an analysis so close to the effective date of legislation. There is a significant number of charges still pending disposition in the Post HB19 data set, therefore the statistics in Table 3 are less meaningful at this time and will require additional analysis in the future to determine if the higher guilty rate is a legitimate finding.

Table 3

	<i>Final Disps</i>	<i>Glty Disps</i>	<i>% Guilty</i>	<i>NOLP/DISM/Not Guilty</i>	<i>% NOLP/DISM/Not Guilty</i>
Pre HB19	15,486	3,093	19.97%	12,393	80.03%
Post HB19	4,701	1,082	23.02%	3,619	76.98%

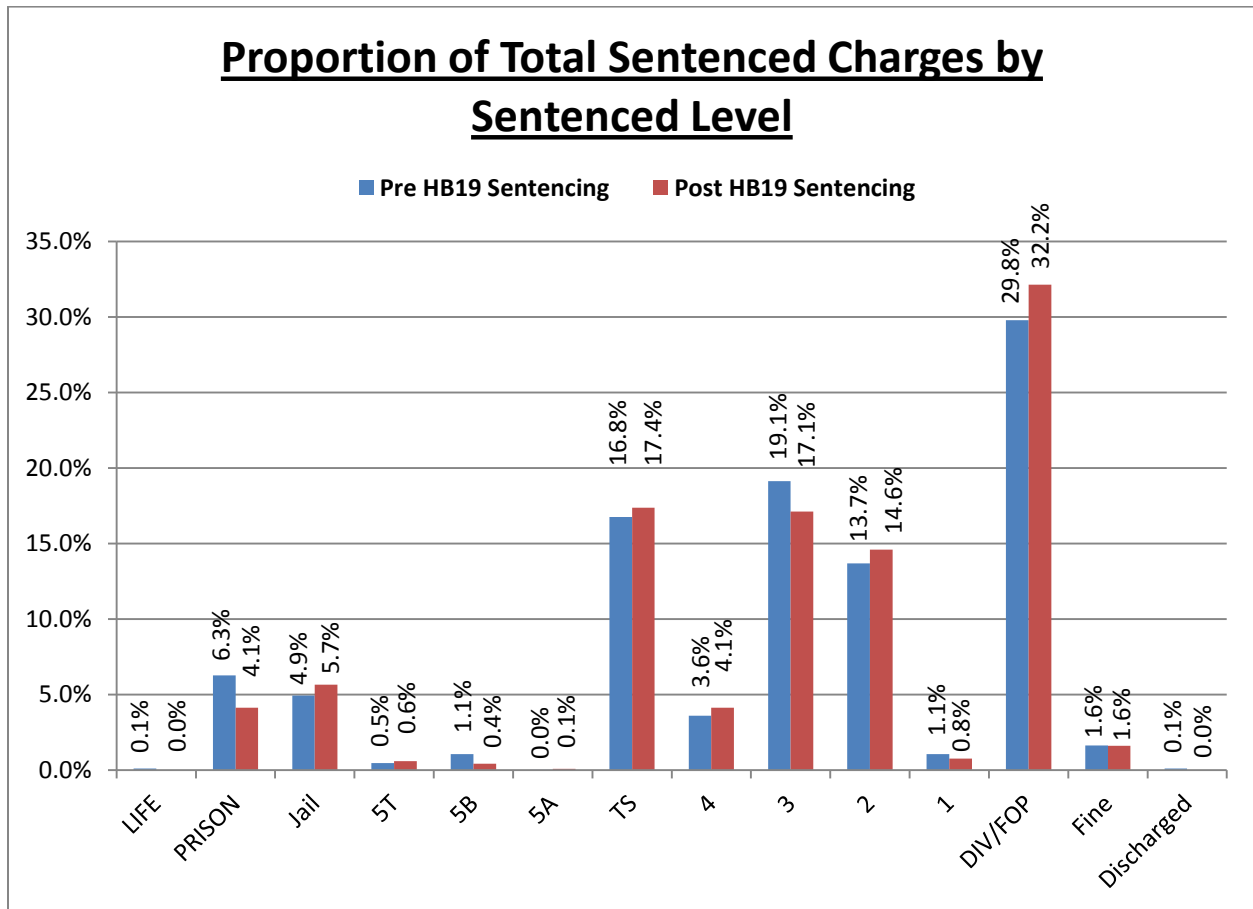
Chart 3 shows the percentage of guilty charges by type and class for both Pre and Post HB19 dispositions. As previously mentioned, because a large number of charges are still pending disposition in the Post HB19 data set, all findings should be considered preliminary until further analysis can be conducted to determine their legitimacy. Chart 3 shows a very important trend concerning Felony B charges. Charts 1 and 2 show that Felony B arrests are up in the Post HB19 data set, but Chart 3 shows that the percent of total guilty charges for Felony B's in the Post HB19 data set are down compared to the Pre HB19 data set. This drop in guilty percentage could be due to the increased likelihood of Felony B charges to be convicted of a Lesser Included Offense, similar to what Table 2 illustrated. As previously stated, it is important to reserve judgment on these findings due to the number of charges still pending in the Post HB19 data set. All other type and class percentages mirror what was seen in the arrest data.

Chart 3



Much like the disposition information, sentencing analysis is very limited due to the lack of time between the effective date of HB19 and when this analysis was conducted. Chart 4 is a proportional look at sentencing by level for all drug charges that had been sentenced at the time of analysis. Drug charges sentenced to prison (>12 months) are down in Post HB19 data, while jail (<=12 months), Time Served, and Diversion/First Offender Program sentences are up compared to Pre HB19 data. Due to the significant drop in prison sentences it is imperative that sentencing analysis be monitored closely in the future, but at this time, the impact of these findings cannot be considered conclusive due to the lack of total charges sentenced in the Post HB19 data set. The Post HB19 data set had 1,185 sentenced charges compared to 4,069 sentenced charges in the Pre HB19 data set. The results from this proportional comparison are less significant due to this large difference in the number of charges sentenced.

Chart 4



This analysis provides limited information on the effects of the drug law revisions of HB19 on Delaware’s Criminal Justice System. Continued detailed analysis will be necessary in the future to determine the significance of the trends mentioned in this analysis.