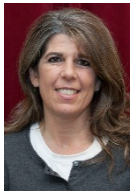




Legislative & Judicial Brief

A Message from Sara Andrews, Director



We are happy to announce Scott Shumaker has joined our team as Criminal Justice Counsel. Before coming to the Commission, Scott worked as an Assistant Prosecuting Attorney in Franklin County for the past decade. He has also worked as a prosecutor in Montgomery County. Please join me in welcoming him to the Commission.

The Legislative & Judicial Brief is designed to share information, spark conversation, enlighten minds and move ideas to solutions that advance public safety, realize fairness in sentencing, preserve judicial discretion, provide a meaningful array of sentencing options and distinguish the most efficient and effective use of correctional resources.

-Sara Andrews

Contents

Legislation Impacting Sentencing	2
Legislation Impacting Sentencing	3
Legislation Impacting Sentencing	4
Legislation Impacting Sentencing	5
Supreme Court of Ohio Decisions Impacting Sentencing	6
Bench Card Juvenile Clerk of Courts	6
Common Language Glossary	6
Working Committees of the Commission	7
Commission Roster	7
Commission Meeting Dates	7

Legislation Impacting Sentencing Recently Introduced



Legislation Impacting Sentencing Updates

HB1 DATING VIOLENCE (SYKES, MANNING)

The bill, a reintroduction of HB 392 of the 131st General Assembly, authorizes the issuance of dating violence protection orders with respect to conduct directed at a petitioner alleging dating violence, provides access to domestic violence shelters for victims of dating violence, and requires the Attorney General's victim's bill of rights pamphlet to include a notice that a petitioner alleging dating violence has the right to petition for a civil protection order. The bill was passed by the Senate on February 20, 2018 and the House concurred to the amendments on February 28, 2018.

HB497 SEXUAL IMAGE DISSEMINATION (ROGERS, MANNING)

The bill prohibits the nonconsensual dissemination of private sexual images and requires that certain property involved in the offense be criminally forfeited. It also creates certain legal rights and employment protections for a victim of the offense. The bill was introduced on February 13, 2018 and had a first hearing in the House Community and Family Advancement on February 28, 2018.

HB498 RESISTING ARREST PENALTIES (SCHURING)

The bill would classify "resisting arrest" as an offense of violence. It also increases the penalty for resisting arrest from an M2 to an M1, and to an F5 (from an M1) if a weapon is brandished or if a law enforcement officer is physically harmed. The bill was introduced on February 13, 2018 and referred to the House Criminal Justice Committee on February 20, 2018.

HB 523 ANIMAL AND CHILD ABUSE REGISTRY (LANESE, PERALES)

The bill establishes animal abuse reporting requirements and requires that the Department of Defense Family Advocacy Program be notified when a person serving in the armed forces is investigated for child abuse or neglect or domestic violence. The bill was introduced February 21, 2018.

HB528 CORPSE ABUSE PENALTIES (SMITH, REZABEK)

The bill expands the offense of abuse of a corpse to provide that if the person also knowingly dismembers, severs, separates, dissects, or mutilates the corpse, the offense is an F1 subject to a mandatory prison term of 6-11 years. If done as part of a ceremony, rite, initiation, observance, performance, or practice, it is an F2 subject to standard F2 sentencing, but with a mandatory prison term of 6-11 years if done to the corpse of a child. The bill was introduced February 26, 2018.

HB535 NALOXONE-NALTREXONE DATA REPORTING (GAVARONE)

The bill requires hospitals to report drug overdose cases monthly, including the number resulting in death, to the Department of Health and specifies the Department of Health will publish the information on its website. The bill also requires certain reporting of the administration of naloxone to the Department of Health and includes naltrexone within the Ohio Automated Rx Reporting System. The act is to be named the "Opioid Data and Communication Expansion Act." The bill was introduced March 1, 2018 and has a first hearing in the House Community and Family Advancement Committee on March 7, 2018.

SB260 ASSAULT WEAPONS BAN (SKINDELL, TAVARES)

The bill prohibits a person from knowingly possessing or acquiring an assault weapon and requires the Attorney General to prepare a firearm and ammunition transactions database. The bill was introduced on February 20, 2018 and was referred to the Government Oversight and Reform Committee on February 28, 2018.

SB267 SOLICITING FINE INCREASES (BROWN, KUNZE)

The bill increases the penalty for soliciting when the person solicited is 18 or older, and caps the fine for soliciting in this circumstance at \$2,500, up to \$1,000 of which may be deposited into the Victims of Human Trafficking Fund. The bill was introduced on February 26, 2018 and its companion is HB520 (Hughes, Miller) was introduced on February 21, 2018 and referred to the Criminal Justice Committee on February 27, 2018.

SB268 THEFT IN OFFICE PENALTIES (WILSON)

The bill establishes first and second degree felony offense levels (current law limits the offense to a third degree felony) for theft in office based on the amount of property or services stolen. The bill also allows for certain audit costs of the entity that suffered the loss involved in the offense to be included an order for restitution. The bill was introduced on March 1, 2018.

Legislation Impacting Sentencing – Updates (continued)

HB96 SEXUAL IMPOSITION – REPEAT OFFENDERS (HUGHES)

The bill increases the penalty for sexual imposition when the offender previously was convicted or pled guilty three or more times to certain specified sex offenses and repeals the corroboration requirement for a sexual imposition conviction. The bill was passed by the House on February 28, 2018, 85-0.

HB228 USE OF FORCE IN SELF-DEFENSE (JOHNSON, LATOURETTE)

The bill, as introduced, shifts the burden to the state to prove beyond a reasonable doubt that a person charged with an offense that involved the use of force against another did not use that force in self-defense, defense of another, or defense of that person's residence. The bill expands the circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's residence. The bill further modifies the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises. The bill has been referred to as a "stand your ground" bill and was amended at a third hearing, with all testimony heard, on February 13, 2018.

HB276 THREATENING UTILITY WORKERS (REZABEK, GREENSPAN)

The bill enhances the penalty for aggravated menacing if the offender knows or has reasonable cause to know the victim is a utility worker and the offender threatens the worker with a deadly weapon with intent to obstruct the operation of a utility. The bill was referred to the Senate Judiciary Committee on February 20, 2018.

HB278 LAW ENFORCEMENT VEHICULAR ASSAULT (PATTON, KELLY)

The bill includes negligently causing serious physical harm to a law enforcement officer while operating a motor vehicle as a violation of the offense of vehicular assault. A substitute bill was accepted on February 13, 2018.

HB 336 LICENSE REINSTATEMENT FEE AMNESTY (BARNES, GREENSPAN)

The bill prohibits license reinstatement fees for (1) a juvenile whose license was suspended because of an unruly or delinquent adjudication, unless it was for an offense involving alcohol, drugs, or weapons, (2) a juvenile whose license was suspended because of habitual truancy, if the juvenile provides a diploma or GED, (3) a temporary driving permit, except for a commercial permit, (4) an adult whose license, except for commercial licenses, was suspended for lack of insurance, too many points, or a municipal ordinance violation, unless it for an offense involving alcohol, drugs, or weapons. The bill had a first hearing on February 7, 2018 and a second hearing on February 27, 2018 in the Transportation, Commerce and Workforce Committee.

HB349 POLICE ANIMALS (LATOURETTE)

The bill increases the penalty from M2 to F4 and increases the penalty for an assault resulting in serious physical harm from an F4 to an F3. If the assault results in death, the increases from an F3 to an F2. The F2 carries a mandatory prison term and a mandatory fine. Search and rescue animals are included in the statute. The bill had a third hearing in the House Criminal Justice Committee on February 13, 2018.

HB352 DOGS LAW REVISIONS (REZABEK, HUFFMAN)

The bill revises provisions of the law governing nuisance, dangerous, and vicious dogs, revises its enforcement, and establishes a notification process regarding complaints of certain violations of that law. The bill had a first hearing in the House Government Accountability and Oversight on February 13, 2018. The Senate companion bill is SB195 (Beagle, Lehner).

Legislation Impacting Sentencing – Updates (continued)

HB354 TIFFIN-FOSTORIA ADDICTION PROGRAM (REINEKE)

The bill allows the Tiffin-Fostoria Municipal Court to have jurisdiction concurrent with the Seneca County Common Pleas Court to operate a drug addiction recovery program. The bill had a second hearing in the Senate Judiciary Committee on February 20, 2018.

HB355 SEXTING UNDER 21 (HILL, REZABEK)

The bill generally prohibits sexting by a person under 21 years of age but allows diversion from penalty. The bill requires every court in Ohio to create a "sexting educational diversion program" for Ohioans under 21 convicted of sending sexually explicit material featuring minors, as long as it is a first conviction, there is not more than a 5-year difference in ages between offender and person portrayed in the material, and there was no exchange of money or other item of value. The bill also creates several exceptions, including for people with explicit photos of themselves or their spouses (so long as they don't distribute the photos) and those who receive unsolicited photos and immediately delete them. The bill had a first hearing in the House Criminal Justice Committee and was amended on February 13, 2018.

HB411 WRONGFUL IMPRISONMENT LAW (SEITZ, SYKES)

The bill modifies the law governing recovery for wrongful imprisonment. The bill allows an Ohio resident to file the civil action either in the court where the criminal action was initiated or in the common pleas court of the county where the person resides. Criterion describing the wrongful conviction is expanded to misdemeanor convictions, to the felonies or aggravated felonies covered under existing law. The bill also requires: 1.) the Court of Claims to deduct any known debts owed; 2.) a person to reimburse the state for the amount of any award in a related civil rights action that is received after the Court of Claims enters judgment in the person's favor and; 3.) a person to reimburse the state for the entire award for wrongful imprisonment if the person is later convicted of an offense that is based on any act associated with the conviction that was vacated, reversed, or dismissed on appeal and that was the basis of the person being determined wrongfully imprisoned. The bill mirrors the Senate introduced version, SB248. The bill had a third hearing in the House Government Accountability and Oversight Committee on February 20, 2018.

HB427 ADDICTION & OVERDOSE RESPONSE (YOUNG)

The bill as-introduced authorized grants for treatment programs and required county reporting of overdose deaths. On January 24, 2018, at the first hearing in the House Community and Family Advancement Committee, a substitute bill was accepted. The substitute bill allows individuals who provide drugs to another individual who then dies to be charged with involuntary manslaughter and creates a mechanism in which overdosing individuals who have already received an administration of naloxone within the past 72 hours can be admitted without their consent to a hospital or drug treatment facility. The bill had a third hearing in the House Community and Family Advancement Committee on February 28, 2018.

Legislation Impacting Sentencing – Updates (continued)

HB457 OPIATE USE-PAROLE & COMMUNITY CONTROL (ANTANI)

The bill requires that an offender serving a community control sanction or a parolee who fails a drug test for heroin, fentanyl, or carfentanil be held in jail or admitted to a residential treatment program for up to 30 days. The bill had a second hearing in the House Criminal Justice Committee on February 27, 2018.

SB 1 DRUG LAWS (LAROSE)

The bill increases penalties for drug trafficking, drug possession and aggravated funding of drug trafficking when the drug involved in the offense is a fentanyl-related compound; revises the manner of determining sentence for certain violations of the offense of permitting drug abuse, and adds lisdexamfetamine to the list of schedule II controlled substances. The bill was passed by the House on February 28, 2018, 86-7.

Legislation Impacting Sentencing – continued

SB66 SENTENCING MODIFICATION-REHABILITATION (EKLUND, TAVARES)

The bill, as introduced, modifies criminal sentencing and corrections law by including rehabilitation as a purpose of felony sentencing and removes the one-year minimum for presumptive fourth or fifth degree felony community control sanctions.

The bill also modifies sanctions for a violation of a community control condition and the manner of calculating confinement credits. The bill modifies the eligibility criteria and procedure for participation in intervention in lieu of conviction and allows offenders convicted of certain multiple fourth or fifth degree felonies eligibility for conviction record sealing.

Additionally, the bill revises procedures for the Adult Parole Authority to grant a final release or to terminate post-release control, and modifies the criteria for considering a prison term sanction for a post-release control violation.

The bill was passed by the Senate on February 28, 2018, 32-0 and referred to the House Criminal Justice Committee on March 6, 2018.

SB145 DISMEMBERMENT ABORTIONS BAN (HUFFMAN)

The bill generally prohibits a person from knowingly performing or attempting to perform a dismemberment abortion. The bill had a third hearing in the House Criminal Justice Committee on February 13, 2018.

SB171 PROTECTION ORDER VIOLATION PENALTIES (HOTTINGER)

The bill increases the penalty that applies to the offense of violating a protection order if the offender had previously been convicted of a protection order violation or aggravated menacing or menacing. The bill also requires probation agencies (instead of law enforcement) to oversee electronic monitoring of those convicted of violating juvenile protection orders or menacing by stalking protection orders. The bill had a third hearing in the Senate Judiciary Committee on February 27, 2018.

SB195 DOGS LAW (BEAGLE, LEHNER)

The bill revises provisions of the law governing nuisance, dangerous, and vicious dogs, revises its enforcement, and establishes a notification process regarding complaints of certain violations of that law. The bill had its third hearing in the Senate Judiciary Committee and was amended on February 27, 2018. The House companion bill is HB 352 (Huffman, Rezabek).

SB235 SEX OFFENDER REGISTRY CHANGES (EKLUND)

The bill creates a procedure for certain tier II sex offenders convicted of unlawful sexual conduct with a minor to petition a court for reclassification or removal from the sex offender registry and to permits record sealing in those cases. To be eligible for review of registration requirements, the offender must have been between 18 and 21 at the time of the offense and not an authority figure over the other party; the other party cannot have been younger than 14; and the offender must have complied with all conditions of community control. The bill was introduced on November 27, 2017 and referred to Judiciary Committee on February 20, 2018.

SB244 PROMOTING PROSTITUTION PENALTIES (DOLAN, MANNING)

The bill amends penalties for promoting prostitution by specifying that prior conviction of a similar violation or a conviction of trafficking or aggravated trafficking in drugs increases the offense to a third degree felony. The bill also specifies that if one or more convictions of a similar offense is a second degree felony and if the person pleads guilty to or is convicted of a firearm specification, the court shall sentence the person to a mandatory prison term. The bill had a second hearing in the Senate Judiciary Committee on February 27, 2018.

SB231 SIERAH'S LAW-VIOLENT OFFENDERS (GARDNER)

The bill requires the Ohio Attorney General Bureau of Criminal Investigation to establish a Violent Offender Database (VOD), requires persons convicted of certain violent offenses to enroll in the database and names the provisions of the act "Sierah's Law". The bill also increases the current membership of the Ex-Offender Reentry Coalition from 17 to 21, adding four members of the General Assembly, specifying two of the four will be the chairpersons of the standing committees that primarily address criminal justice matters, modifies the duties of the Coalition and eliminates its repeal. The bill requires halfway houses to use the single validated risk assessment tool selected by the Department of Rehabilitation and Correction for adult offenders and it provides that that the notice of release from prison of specified offenders given to sheriffs is to be the same as that provided to prosecuting attorneys and eliminates the notice to sheriffs regarding pardons, commutations, paroles, and transitional control transfers of offenders. The bill had a second hearing and was amended in the Senate Judiciary Committee on February 27, 2018.

Supreme Court of Ohio Decisions Impacting Sentencing

STATE V. NOLING, SLIP OPINION No. 2018-OHIO-795

On March 6, 2018, the Supreme Court ruled that when a trial judge fails to comply with the state DNA-testing law, the Ohio Supreme Court has jurisdiction to hear an offender’s appeal, and that a laboratory report’s conclusions about a DNA test are not equivalent to actual test results. The decision affirmed in part the judgement of the trial court and reversed in part. The case was remanded back to the trial court to ensure the defendant is provided “the results of the testing’ under R.C. 2953.81(C).

STATE V. PAIGE, SLIP OPINION No. 2018-OHIO-813

In a unanimous opinion announced on March 7, 2018, the Supreme Court reversed an Eighth District Court of Appeals decision that vacated a portion of the defendant’s sentence. The Court did not accept the Eighth District’s conclusion that the longer community control sentence resulted in an improper “split sentence” and ruled that, except for the requirement of community based confinement following the prison sentence, a judge’s decision to send the defendant to prison with a concurrent, but longer, period of community control on a separate offense was appropriate.



“Common Language Glossary”

As mentioned in the [February 9, 2018 edition of The Brief](#), Chief Justice O’Connor inspired the creation of the Regional Judicial Opioid Initiative, or RJOI, which is a first-of-its-kind regional task force. Eight states — Illinois, Indiana, Kentucky, Ohio, Michigan, North Carolina, Tennessee, and West Virginia — have started to identify the core problems and split up the work.

The Ohio team, as featured in the [February 22, 2018 Court News Now story](#), recently met to identify state programs that target the opioid crisis and where gaps may exist. The team is also considering several priority areas including continued enhancements and access to Ohio’s prescription drug monitoring program (called OARRS) for courts with specialized dockets, treatment access using teleservices, infants with prenatal substance exposure, naloxone access and distribution, stigma reduction and reviewing the drug chapter of the Ohio Revised Code.

As part of its effort to lessen the stigma around drug addiction, the Ohio team crafted a glossary of addiction-related terms. The [“Common Language Glossary.”](#) includes approximately 50 terms and uses reputable sources from the medical and addiction fields. The definitions emphasize addiction as a brain disease and reflect a philosophy of acceptance of those struggling with these destructive, sometimes lethal, addictions.

Juvenile Court Clerk Bench Card

On February 23, 2018, the Supreme Court of Ohio released a new guide for juvenile court clerks. As reported in [Court News Ohio](#), the bench card was developed by the Court’s Children and Families staff and Case Management staff.

The [Desktop Guide for Juvenile Court Clerks](#) was created to provide guidance to juvenile court clerks and personnel on the tasks they perform. The reference also provides information on best practices and provides an overview of state law and related rules.

Ohio Criminal Sentencing Commission Members

CHAIR

Maureen O'Connor, *Chief Justice*

VICE-CHAIR

Nick Selvaggio, *Common Pleas Court Judge*

John Eklund, *State Senator*

Cecil Thomas, *State Senator*

Jeffrey Rezabek, *State Representative*

Kristin Boggs, *State Representative*

Thomas Marcelain, *Common Pleas Court Judge*

Robert DeLamatre, *Juvenile Court Judge*

Gary Dumm, *Municipal Court Judge*

Carl DiFranco, *Municipal Court Judge*

W. Scott Gwin, *Appellate Court Judge*

Kenneth Spanagel, *Municipal Court Judge*

Steve McIntosh, *Common Pleas Court Judge*

Terri Jamison, *Juvenile Court Judge*

Robert Fragale, *Juvenile Court Judge*

Charles "Chip" McConville, *County Prosecutor*

Lara Baker-Morrish, *City of Columbus, Chief
Prosecutor*

Larry Sims, *Sheriff*

Aaron Montz, *Mayor*

Col. Paul Pride, *Ohio State Highway Patrol*

Harvey Reed,
Director, Department of Youth Services

Tim Young, *State Public Defender*

Gary Mohr, *Director, Department of Rehabilitation
and Correction*

Chrystal Pounds-Alexander,
Victim Representative

Paula Brown,
Ohio State Bar Association

County Prosecutor (Juvenile) – *appointment
pending*

County Commissioner – *appointment pending*

Law Enforcement – *appointment pending*

Juvenile Police Officer – *appointment pending*

Defense Attorney – *appointment pending*

Public Defender – *appointment pending*

*the Commission is assisted by its Advisory
Committee, a [complete list is here](#).

Working Committees of the Commission

Sentencing & Criminal Justice Committee priorities include the study of criminal penalties and sentencing statutes and patterns in Ohio, recommending statutory change and reviewing national developments and trends on matters of sentencing. The committee is also poised to respond and make recommendations regarding more broad areas including probation, risk assessment, release programs, specialized dockets, community corrections and building, as well as improving, relationships and coordinating the work of the Commission with other justice partners – both state and federal.

Juvenile Justice Committee priorities include the review of criminal penalties and sentencing statutes and patterns in Ohio and recommending strategies to combat juvenile delinquency and recidivism.

Data Collection and Sharing Committee primary goals are to develop, coordinate and identify ways to collect and promote methods for sharing appropriate data and information with justice system partners.

Each committee consists of a chair, a vice chair and individual members. The committee chairs are Commission Members or an Advisory Committee member. Committee membership may include individuals outside of the Sentencing Commission and its Advisory Committee that have a vested interest in the Commission's work.

All committees generally meet the third Thursday of each month. For a full list of members, work to date and future meeting information, please visit <http://www.supremecourt.ohio.gov/Boards/Sentencing/default.asp> or email Sara Andrews at sara.andrews@sc.ohio.gov.

2018 Full Commission Meeting Dates

Thursday, **March 15, 2018** at the Vern Riffe Center

Thursday, **June 21, 2018**

Thursday, **September 20, 2018**

Thursday, **December 13, 2018** at the Vern Riffe Center

Unless otherwise noted, all meetings are held beginning at 10:00 a.m. at the Thomas J. Moyer Ohio Judicial Center, 65 South Front Street, Columbus, Ohio 43215. *Working committees meet between Full Commission meeting dates.

Contact Us:

Ohio Criminal Sentencing Commission
65 South Front Street, 5th Floor
Columbus, Ohio 43215-3431

www.supremecourt.ohio.gov/Boards/Sentencing

Special Thanks to contributor:

Marta Mudri, Esq., Legislative Counsel, Ohio Judicial Conference

Questions, Comments, Suggestions? Contact: sara.andrews@sc.ohio.gov



This publication is produced in collaboration
with the Ohio Judicial Conference.