



CRIMINAL SENTENCING COMMISSION

65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

25 Years of SB2: Sentencing Roundtable Workgroup Update 12-16-2021

Areas of Consensus:

- Record Sealing - ORC 2953 - Simplification
 - A simplified version of 2953 was suggested by an Ad Hoc committee of the Commission (Linked here: [2953](#)) and is still a viable alternative to complicated current record sealing provisions. Further, this version was influential in the introduction of HB604 (Rodgers) in the 133rd General Assembly and remains readable and easy to understand.
- Recodification Committee - mens rea element
 - The inclusion of mens rea elements based on case law does not substantially change the code. It does, however, make the code more user friendly for lawyers and lay-people.
- Removal of Unconstitutional Code sections [2907.05(C)(2)(a) and 2901.08(B)(1) and (2)]
 - These code sections have been found unconstitutional by the Supreme Court of Ohio and should be removed from the code.

Not discussed but may/should be included in criminal justice omnibus bill:

- Criminal Justice Commission – modernization of enabling statutes of the Sentencing Commission
 - The modernization of the enabling statutes of the Sentencing Commission has been discussed since 2013. Last year Representative Seitz drafted legislation reflecting the changes (see page 2 for details) and more recently Representative White has worked with interested parties to refine the provisions.
- Appellate Review
 - There are different proposals and draft revisions of 2953.08 that need to be reviewed and discussed within the workgroup. Several options will be presented and discussed at the next meeting of the workgroup.
- Reagan Tokes law – HB166
 - HB166 contains language that clarifies some definitions as well as modifies and clarifies procedures for and calculations of indefinite prison terms for F1s and F2s. It will also allow for the coordination of the order in which non-life felony indefinite terms are to be served. These changes will help trial court judges and practitioners and improve the administration of the provisions of Regan Tokes Law.



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The modernization of the enabling statutes of the Commission to the Ohio Criminal Justice Commission is key to an effective sentencing restructure effort as proposed:

The (Ohio Criminal Justice) commission¹ shall work to review and propose criminal justice policies that do all of the following:

- (1) Enhance public safety;
- (2) Reduce crime and recidivism;
- (3) Provide for individualized sentencing and adequate retribution for offenders;
- (4) Foster fairness, proportionality, and consistency;
- (5) Use facilities, programs, and services in a cost- effective manner;
- (6) Encourage scientific evaluation of policies and programs;
- (7) Recommend legislation that is technically sufficient while being more readily understandable by average Ohioans.

The Ohio criminal justice commission shall do all of the following:

- (A) Facilitate the development and maintenance of a state- wide criminal sentencing database by pilot program in collaboration with the supreme court and the judicial branch, state agencies, and local jurisdictions, using existing state and local databases or resources where appropriate. The implementation of the pilot program on a statewide basis is subject to applicable Rules of Superintendence of the supreme court;
- (B) Make recommendations for coordination of policies in the state's criminal justice system for the three branches of state government, based on information from practitioners and other experts through ongoing discussions, research, and review of existing practices and procedures, which shall include cost- benefit analyses of the practices and procedures;
- (C) Conduct sentencing trends analyses and studies;
- (D) Evaluate the impact of pretrial, sentencing diversion, incarceration, and post-release supervision programs;
- (E) Act as a clearinghouse on significant criminal justice proposals and perform fiscal impact analyses on proposed criminal justice legislation as determined by the commission or as requested by the general assembly or the governor;
- (F) Act as a sentencing policy resource for the state;
- (G) Recommend policy, legislative, and rule changes to the general assembly and other entities, consistent with the goals listed in division (C) of section 181.21 of the Revised Code, and provide testimony as needed;
- (H) Identify topics for comprehensive review;
- (I) Expand the commission's expertise, as needed, by inviting nonmembers to address the commission or participate in subcommittee meetings under section 181.24 of the Revised Code;
- (J) If the general assembly or other entity adopts any commission recommendations, assist in training practitioners and in monitoring the impact of the changes.

¹ As drafted I_133_2862 September 2020, with suggested revisions 09-16-2021.