

Operation and Leadership

Committees of diverse membership – including members outside of the Commission and its Advisory Committee – and Ad Hoc Committees meet regularly, while the full Commission meets quarterly. The next full Commission meeting is December 13, 2018. Chief Justice O’Connor chairs the Commission and the Vice-Chair is Judge Nick Selvaggio from the Champaign County Court of Common Pleas.

Sentencing Commission Project Updates

— Drug Chapter Proposal

Our membership has long discussed the need for common sense changes to modernize and refine the provisions of Revised Code section 2925 dealing with controlled substance offenses. We’ve agreed that at minimum those efforts must address the way trace amount drug cases are handled while ensuring the distinction between drug users and drug traffickers and recognizing that relapse is a part of recovery. To that end, Commission staff has referred to the work of the Recodification Committee, monitored legislative efforts, considered the content of Issue 1 and subsequent draft proposals (i.e. “the Klein-O’Brien plan”), and researched reform efforts in other states in order to help inform the discussion of recommended changes to Chapter 2925.

The proposal was considered by a Committee of the Commission on 11-15-18. Consequently, the Committee voted to advance it to interested parties as well as leadership in the General Assembly. This decision was made because the group recognized and agreed that time is of the essence since other proposals are already in legislative draft form (i.e. the “Klein-O’Brien” plan) and due to the compressed legislative lame duck schedule. The Committee also noted there are additional issues associated with any "possession of drug offense reduction", such as sharing of probationary resources and modifying residential treatment admission program standards. Additionally, since the meeting of the Committee, we’ve asked DRC for estimated bed impact from the proposal, which they said is possible and will get back to us about how long it will take to produce that information.

The full Commission will consider the proposal its meeting on December 13, 2018.

— Recodification

Commission staff has continued work in partnership with the Ohio Judicial Conference (OJC) to move forward portions of the Recodification Committee recommendations. We have parsed many of the recommendations into two proposed bills, one specific to the drafting conventions to improve readability and those in which a mens rea element was added. The second bill contains changes deemed non-controversial aimed at nonviolent and property related crimes. Both bills are currently being drafted by LSC, and Commission and OJC staff will work with the legislature to identify potential sponsors in the upcoming general assembly.

— Juvenile Committee

The Committee recently voted to seek funding for a proposed study of juvenile sentencing practices in Ohio. A small workgroup was formed to look for revenue streams to cover the cost of the study, estimated to be approximately \$60,000. The Committee also considered the effect of School Safety Initiatives on juvenile justice issues at its November 2018 meeting.

— Justice Reinvestment

The final scheduled meeting of the Ohio Criminal Sentencing Commission’s Justice Reinvestment (JR) 2.0 Ad Hoc Committee was on November 8, 2018. The goal of the group is to “develop a statewide public safety strategy to reduce crime, improve behavioral health treatment and adopt more cost-effective sentencing, corrections and supervision policies.” The work has resulted in four related policy objectives: reducing violent crime, expanding mental health and drug treatment, reducing recidivism and its costs, and improving criminal data collection – all of which received final votes by committee members. A provisional written report is expected by year end and a longer, definitive report will be prepared once legislation is enacted by (the 133rd) General Assembly.

[More information is available here.](#)

— Bail and Pretrial Services

The report and recommendations from the Commission inspired legislation Sub.HB439 (Dever, Ginter) and SB274 (McColley), which is not expected to advance in the lame duck session. In March 2018, staff of the Ohio Criminal Sentencing Commission produced a report to estimate costs associated of implementation for provisions in the proposed legislation.

Last year, the Commission asked the Rules of Practice and Procedure to consider its Bail and Pretrial Services Report and Recommendations that impacted Crim. R. 46. Accordingly, the Commission on the Rules of Practice and Procedure has proposed a number of changes to the Rules of Evidence and the Rules of Criminal Procedure, including Rule 46(B). The revisions suggest that bond should be set based on the least restrictive conditions that, in the court’s judgment, will reasonably ensure the defendant’s appearance in court, the protection of the safety of any person or the community, and that the defendant will not obstruct the criminal justice process. In Crim. R. 46, the Commission also proposed adding an additional item for the court to consider in setting bond – a risk assessment tool.

In October 2018, we received notice that we were awarded a grant in collaboration with the Office of Criminal Justice Services regarding data collection for bail and pretrial services with five courts – Parma Municipal, Fairborn Municipal and Courts of Common Pleas in Franklin, Lucas and Tuscarawas counties. The summary description is as follows:

Under the Special Emphasis project, OCJS will collaborate with the Ohio Criminal Sentencing Commission, an Affiliated Office of the Supreme Court of Ohio, to move Ohio municipal and common pleas courts toward better and more comprehensive data collection on bail and pretrial services. OCJS and the Criminal Sentencing Commission will carry out the following activities:

- 1) Assess the quality of local court data and examine the extent to which these records can support analysis of bail and pretrial services;*
- 2) Make recommendations regarding data collection based on local needs and the standards identified as most critical in assessing outcome and performance measures for the bail and pretrial services field, and their related court functions; and*
- 3) To work with identified courts on early implementation of these recommendations.*

— Appellate Review of Felony Sentencing

Sentencing Commission members and the Ohio Judicial Conference are working on a legislative proposal to amend ORC 2952.08 dealing with Appellate Review of Felony Sentencing. The chapter currently contains language that has been subject to inconsistent and often conflicting interpretation throughout the state. These efforts are intended to provide a method for uniform and meaningful review of felony sentencing by appellate courts through clear drafting and concise statements of standards. Judges, prosecutors, and representatives of the defense bar presented a legislative to the full Commission in September 2018, which was tabled for future discussion. The working group intends to meet in December 2018 to refine the proposal.

— Case disposition

This ongoing project uses a variety of data sources in an effort to better understand where people go when they leave the court. We started with 2016 data using a small subset of counties (and Common Pleas courts) to explore whether we could put data together to comprehensively tell disposition outcomes for all cases in a county where an F5 was the highest offense of conviction. We are now gathering 2017 data. This type of analyses allows us not only understand the number of cases sentenced to prison, but also to see those sentenced to community control (and types of community control, if available) or jail.

— T-CAP

In an effort to contribute to the conversation in useful and meaningful ways, the Commission has been studying, and trying to better understand, why T-CAP eligible F5 offenders might be sent to prison. Our purpose and intent is to consider what was/is happening at the local level. We chose a “deep dive” approach – a small, intensive, qualitative study of journal entries of sentence in just a few counties, some now participating in T-CAP and some not. Using both allowed us to better see if there may be similarities or differences between the groups, while at the same time knowing it was/is a small case study and not representative of all counties or Ohio.

— Jail recidivism

This project is in collaboration with the Buckeye State Sheriff’s Association, the Stepping Up initiative in Ohio and the Council of State Governments. The project goal is to establish, and then possibly measure, the concept of jail recidivism. We are also considering partnering the conversation of defining jail recidivism with an effort to identify trends and patterns of jail population over time using the historical jail data the Commission has from the early 2000s in combination with more recent data.

Questions? Contact Sara Andrews, Director sara.andrews@sc.ohio.gov