

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 555

Representatives West, Sykes

**Cosponsors: Representatives Rogers, Seitz, Celebrezze, Brown, Kent, Howse,
Smith, K., Ashford, Antonio, Reece, Boggs**

A BILL

To amend section 1.58 and to enact section 109.67 1
of the Revised Code to provide that a reduction 2
of a penalty, forfeiture, or punishment for an 3
offense applies with respect to an offender who 4
committed that offense on or after the bill's 5
effective date or, if the offense is not an 6
offense of violence, prior to that date and was 7
sentenced for the offense under the law in 8
effect prior to the reduction. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1.58 be amended and section 109.67 10
of the Revised Code be enacted to read as follows: 11

Sec. 1.58. (A) The reenactment, amendment, or repeal of a 12
statute does not, except as provided in division (B) of this 13
section: 14

(1) Affect the prior operation of the statute or any prior 15
action taken thereunder; 16

(2) Affect any validation, cure, right, privilege, 17

obligation, or liability previously acquired, accrued, accorded, 18
or incurred thereunder; 19

(3) Affect any violation thereof or penalty, forfeiture, 20
or punishment incurred in respect thereto, prior to the 21
amendment or repeal; 22

(4) Affect any investigation, proceeding, or remedy in 23
respect of any such privilege, obligation, liability, penalty, 24
forfeiture, or punishment; and the investigation, proceeding, or 25
remedy may be instituted, continued, or enforced, and the 26
penalty, forfeiture, or punishment imposed, as if the statute 27
had not been repealed or amended. 28

(B) If the penalty, forfeiture, or punishment for any 29
offense is reduced by a reenactment or amendment of a statute, 30
~~the both of the following apply:~~ 31

(1) The penalty, forfeiture, or punishment, if not already 32
imposed, shall be imposed according to the statute as amended. 33

(2) If the reduction is of a type described in division 34
(C) (2) of this section, if the penalty, forfeiture, or 35
punishment for the offense that existed before the reduction 36
already has been imposed upon an offender, and if the offense 37
for which that penalty, forfeiture, or punishment was imposed is 38
a qualifying offense, upon application made under division (C) 39
(1) of this section by the offender who is subject to the 40
penalty, forfeiture, or punishment and a finding by the court as 41
described in that division, the penalty, forfeiture, or 42
punishment imposed on the offender shall be modified in 43
conformity with the reduced penalty, forfeiture, or punishment 44
according to the statute as amended. This division does not 45
apply with respect to a penalty, forfeiture, or punishment 46

imposed for an offense committed prior to the date on which the 47
provisions of this division become operative, as described in 48
division (D) of this section, that is not a qualifying offense. 49

(C) (1) An offender who desires a modification pursuant to 50
division (B) (2) of this section of a penalty, forfeiture, or 51
punishment imposed on the offender for a qualifying offense may 52
apply to the court in which the penalty, forfeiture, or 53
punishment was imposed. Upon receipt of an application under 54
this division, the court shall conduct a hearing on the 55
application. The court shall notify the prosecutor who handled 56
the case resulting in the penalty, forfeiture, or punishment of 57
the application and the hearing. The offender has the right to 58
be physically present at the hearing, except that, upon the 59
court's own motion or the motion of the offender or the 60
prosecutor, the court may permit the offender to appear at the 61
hearing by video conferencing equipment or another electronic 62
communication method, if available and compatible. An appearance 63
by video conferencing equipment or another electronic 64
communication method pursuant to this division has the same 65
force and effect as if the offender were physically present at 66
the hearing. 67

If the court at the hearing finds that the offense that is 68
the subject of the application is a qualifying offense, that the 69
penalty, forfeiture, or punishment for the offense has been 70
reduced subsequent to the offender's sentencing, and that the 71
reduction is of a type described in division (C) (2) of this 72
section, the court shall modify the penalty, forfeiture, or 73
punishment imposed on the offender in conformity with the 74
reduced penalty, forfeiture, or punishment, as described in 75
division (B) (2) of this section. After the reduction, the 76
reduced penalty, forfeiture, or punishment shall apply to the 77

offender in substitution for the original penalty, forfeiture, 78
or punishment. If the offender is confined under the penalty, 79
forfeiture, or punishment and, after the reduction, the offender 80
has completed the reduced penalty, forfeiture, or punishment, 81
the offender shall be granted a final release and released from 82
the confinement. 83

(2) As used in divisions (B) (2) and (C) (1) of this 84
section: 85

(a) A "reduction in a penalty, forfeiture, or punishment 86
for an offense" has the same meaning as in section 109.67 of the 87
Revised Code. 88

(b) "Prosecutor" has the same meaning as in section 89
2935.01 of the Revised Code. 90

(c) "Qualifying offense" means any offense that is 91
committed on or after the date on which the provisions of 92
divisions (B) (2) and (C) of this section become operative, as 93
described in division (D) of this section, or any offense other 94
than an offense of violence that was committed prior to that 95
date. 96

(D) The provisions of divisions (B) (2) and (C) of this 97
section become operative on the first day of January of the 98
calendar year following the calendar year in which this division 99
takes effect. 100

Sec. 109.67. (A) As used in this section: 101

(1) A "reduction in a penalty, forfeiture, or punishment 102
for an offense" means any of the following: 103

(a) A change in the length of the possible prison term or 104
jail term, or the range of possible prison terms or jail terms, 105

for the offense that shortens the possible term or the range of possible terms; 106
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(b) A change in the offense classification of the offense that reduces the felony degree of the offense, reduces the misdemeanor degree of the offense, or changes the offense from a felony to a misdemeanor; 108
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(c) A change in the length of a penalty, forfeiture, or punishment provided for the offense, other than a change described in division (A) (1) (a) or (b) of this section, that shortens, makes less stringent, or otherwise reduces the penalty, forfeiture, or punishment; 112
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(d) The repeal of the prohibition under the offense that the offender in question was convicted of committing or to which the offender pleaded guilty. 117
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(2) "Head of a local correctional facility" means the person immediately in charge of the local correctional facility. 120
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(3) "Local correctional facility" has the same meaning as in section 2903.13 of the Revised Code. 122
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(4) "Qualifying offense" has the same meaning as in section 1.58 of the Revised Code. 124
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(B) The attorney general shall review all bills introduced in the general assembly to determine whether the bill, if enacted, would provide a reduction in a penalty, forfeiture, or punishment for an offense. If the attorney general, upon the review of a bill, determines that the bill, if enacted, would provide a reduction in a penalty, forfeiture, or punishment for an offense and if the bill is enacted, the attorney general shall send a written notice of that determination to the department of rehabilitation and correction and to the head of 126
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each local correctional facility. The notice shall identify the 135
act and describe in detail the reduction. 136

Upon receipt of a notice from the attorney general under 137
this division, the department and the head of the local 138
correctional facility, as applicable, shall provide a copy of 139
the notice and a description of divisions (B) (2) and (C) of 140
section 1.58 of the Revised Code to each person confined in an 141
institution or facility under the control of the department or 142
the head of the local correctional facility for a qualifying 143
offense with respect to which the reduction applies. 144

Section 2. That existing section 1.58 of the Revised Code 145
is hereby repealed. 146