



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

H.B. 555

132nd General Assembly
(As Introduced)

Reps. West and Sykes, Rogers, Seitz, Celebrezze, Brown, Kent, Howse, K. Smith, Ashford, Antonio, Reece, Boggs

BILL SUMMARY

- Allows the sentence of an offender to be reduced if, after the date of conviction, a legislative enactment reduces the penalty for the offense and the offender meets certain criteria for eligibility.
 - Requires the sentencing court to conduct a hearing to determine whether the offender qualifies for a sentence reduction based on the change in law.
 - Requires the Attorney General to monitor legislation that reduces criminal penalties and notify the heads of local correctional facilities if such legislation is enacted.
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CONTENT AND OPERATION

Retroactive effect of penalty reductions

The bill provides that a court may reduce an offender's sentence upon application if a change in law reduces the penalty for the offense after the date of conviction. The bill's provisions do not apply with respect to a penalty imposed for an offense of violence committed before January 1 of the year following the bill's effective date. Any offense other than an offense of violence committed prior to that date is considered a "qualifying offense" for which an offender's sentence may be reduced. Under current law, if the penalty for any criminal offense is reduced by legislative enactment, the penalty, if not already imposed, is to be imposed according to the statute

as amended. However, the reduced penalty does not apply to an offender if a penalty has already been imposed.¹

The bill defines a "reduction in a penalty, forfeiture, or punishment for the offense" as any of the following:²

- A change in the length of the possible prison term or jail term, or a change in the range of possible terms for the offense that shortens the possible term.
- A change in the offense classification that reduces the degree of the offense or changes the offense from a felony to a misdemeanor.
- A change in the length of a penalty provided for the offense, other than those described above, that shortens, makes less stringent, or otherwise reduces the penalty.
- The repeal of the prohibition that the offender was convicted of or pleaded guilty to violating.

Procedure for obtaining a sentence reduction

Under the bill, if the penalty for any offense is reduced by a reenactment or amendment of a statute, beginning on January 1 of the year following the bill's effective date, an offender who has previously been sentenced may apply to the sentencing court for a reduction of the offender's punishment. Upon receiving the application, the court must conduct a hearing after notifying the prosecutor who handled the original case. The offender has the right to be physically present at the hearing, except that, upon the court's own motion or the motion of the offender or the prosecutor, the court may permit the offender to appear by video conferencing equipment or another electronic communication method, if available and compatible. If the offender appears by such other means, that appearance has the same force and effect as if the offender were physically present at the hearing.

If the court at the hearing finds that the offense is a qualifying offense, that the penalty for the offense has been reduced after the offender's sentencing, and that the reduction fits within the bill's definition of a "reduction in a penalty, forfeiture, or punishment for the offense," the court must modify the penalty to conform to the reduced penalty in statute, and the reduced penalty substitutes for the original penalty.

¹ R.C. 1.58(B) and (C)(2)(c).

² R.C. 109.67(A)(1).



If the offender is confined at that time and, after the reduction, the offender has completed the reduced penalty, the offender must be granted a final release from confinement.³

Attorney General's duties

The bill requires the Attorney General to review all bills introduced in the General Assembly to determine whether the bill, if enacted, would reduce the penalty for an offense. If the Attorney General determines that the bill would reduce the penalty and the bill is enacted, the Attorney General must send a written notice to the Department of Rehabilitation and Correction (DRC) and to the head of each correctional facility, defined as the person immediately in charge of a local correctional facility. The notice must identify the act modifying the penalty and describe in detail the reduction.⁴

Upon receiving the Attorney General's notice of the reduction, DRC and the head of the local correctional facility must provide a copy of the notice and a description of the procedure for obtaining a sentence reduction to each person confined for an offense that would qualify for a reduction.⁵

HISTORY

ACTION	DATE
Introduced	03-15-18

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³ R.C. 1.58(C)(1) and (D).

⁴ R.C. 109.67(A)(2) and (B).

⁵ R.C. 109.67(B).

