

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 719**

**Representatives West, Crawley**

**Cosponsors: Representatives Galonski, Boyd, Liston, Brent, Kent, Smith, K.,  
Miller, J., Miranda, Lightbody, Crossman, Seitz, Kelly, Lepore-Hagan, Sykes,  
Sobecki, Strahorn, Sheehy, Boggs**

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**A BILL**

To amend section 1.58 and to enact section 109.70 1  
of the Revised Code to allow a sentence that has 2  
been imposed for a qualifying offense to be 3  
reduced. 4

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

**Section 1.** That section 1.58 be amended and section 109.70 5  
of the Revised Code be enacted to read as follows: 6

**Sec. 1.58.** (A) The reenactment, amendment, or repeal of a 7  
statute does not, except as provided in division (B) of this 8  
section: 9

(1) Affect the prior operation of the statute or any prior 10  
action taken thereunder; 11

(2) Affect any validation, cure, right, privilege, 12  
obligation, or liability previously acquired, accrued, accorded, 13  
or incurred thereunder; 14

(3) Affect any violation thereof or penalty, forfeiture, 15  
or punishment incurred in respect thereto, prior to the 16

amendment or repeal; 17

(4) Affect any investigation, proceeding, or remedy in 18  
respect of any such privilege, obligation, liability, penalty, 19  
forfeiture, or punishment; and the investigation, proceeding, or 20  
remedy may be instituted, continued, or enforced, and the 21  
penalty, forfeiture, or punishment imposed, as if the statute 22  
had not been repealed or amended. 23

(B) If the penalty, forfeiture, or punishment for any 24  
offense is reduced by a reenactment or amendment of a statute, 25  
~~the both of the following apply:~~ 26

(1) The penalty, forfeiture, or punishment, if not already 27  
imposed, shall be imposed according to the statute as amended. 28

(2) If the reduction is of a type described in division 29  
(C) (2) of this section, if the penalty, forfeiture, or 30  
punishment for the offense that existed before the reduction 31  
already has been imposed upon an offender, and if the offense 32  
for which that penalty, forfeiture, or punishment was imposed is 33  
a qualifying offense, upon application made under division (C) 34  
(1) of this section by the offender who is subject to the 35  
penalty, forfeiture, or punishment and a finding by the court as 36  
described in that division, the penalty, forfeiture, or 37  
punishment imposed on the offender shall be modified in 38  
conformity with the reduced penalty, forfeiture, or punishment 39  
according to the statute as amended. This division does not 40  
apply with respect to a penalty, forfeiture, or punishment 41  
imposed for an offense committed prior to the date on which the 42  
provisions of this division become operative, as described in 43  
division (D) of this section, that is not a qualifying offense. 44

(C) (1) An offender who desires a modification pursuant to 45

division (B) (2) of this section of a penalty, forfeiture, or 46  
punishment imposed on the offender for a qualifying offense may 47  
apply to the court in which the penalty, forfeiture, or 48  
punishment was imposed. Upon receipt of an application under 49  
this division, the court shall conduct a hearing on the 50  
application. The court shall notify the prosecutor who handled 51  
the case resulting in the penalty, forfeiture, or punishment of 52  
the application and the hearing. The offender has the right to 53  
be physically present at the hearing, except that, upon the 54  
court's own motion or the motion of the offender or the 55  
prosecutor, the court may permit the offender to appear at the 56  
hearing by video conferencing equipment or another electronic 57  
communication method, if available and compatible. An appearance 58  
by video conferencing equipment or another electronic 59  
communication method pursuant to this division has the same 60  
force and effect as if the offender were physically present at 61  
the hearing. 62

If the court at the hearing finds that the offense that is 63  
the subject of the application is a qualifying offense, that the 64  
penalty, forfeiture, or punishment for the offense has been 65  
reduced subsequent to the offender's sentencing, and that the 66  
reduction is of a type described in division (C) (2) of this 67  
section, the court shall modify the penalty, forfeiture, or 68  
punishment imposed on the offender in conformity with the 69  
reduced penalty, forfeiture, or punishment, as described in 70  
division (B) (2) of this section. After the reduction, the 71  
reduced penalty, forfeiture, or punishment shall apply to the 72  
offender in substitution for the original penalty, forfeiture, 73  
or punishment. If the offender is confined under the penalty, 74  
forfeiture, or punishment and, after the reduction, the offender 75  
has completed the reduced penalty, forfeiture, or punishment, 76

the offender shall be granted a final release and released from 77  
the confinement. 78

(2) As used in divisions (B) (2) and (C) (1) of this 79  
section: 80

(a) A "reduction in a penalty, forfeiture, or punishment 81  
for an offense" has the same meaning as in section 109.70 of the 82  
Revised Code. 83

(b) "Prosecutor" has the same meaning as in section 84  
2935.01 of the Revised Code. 85

(c) "Qualifying offense" means any offense that is 86  
committed on or after the date on which the provisions of 87  
divisions (B) (2) and (C) of this section become operative, as 88  
described in division (D) of this section, or any offense other 89  
than an offense of violence that was committed prior to that 90  
date. 91

(D) The provisions of divisions (B) (2) and (C) of this 92  
section become operative on the first day of January of the 93  
calendar year following the calendar year in which this division 94  
takes effect. 95

**Sec. 109.70. (A) As used in this section:** 96

(1) A "reduction in a penalty, forfeiture, or punishment 97  
for an offense" means any of the following: 98

(a) A change in the length of the possible prison term or 99  
jail term, or the range of possible prison terms or jail terms, 100  
for the offense that shortens the possible term or the range of 101  
possible terms; 102

(b) A change in the offense classification of the offense 103  
that reduces the felony degree of the offense, reduces the 104

misdemeanor degree of the offense, or changes the offense from a 105  
felony to a misdemeanor; 106

(c) A change in the length of a penalty, forfeiture, or 107  
punishment provided for the offense, other than a change 108  
described in division (A)(1)(a) or (b) of this section, that 109  
shortens, makes less stringent, or otherwise reduces the 110  
penalty, forfeiture, or punishment; 111

(d) The repeal of the prohibition under the offense that 112  
the offender in question was convicted of committing or to which 113  
the offender pleaded guilty. 114

(2) "Head of a local correctional facility" means the 115  
person immediately in charge of the local correctional facility. 116

(3) "Local correctional facility" has the same meaning as 117  
in section 2903.13 of the Revised Code. 118

(4) "Qualifying offense" has the same meaning as in 119  
section 1.58 of the Revised Code. 120

(B) The attorney general shall review all bills introduced 121  
in the general assembly to determine whether the bill, if 122  
enacted, would provide a reduction in a penalty, forfeiture, or 123  
punishment for an offense. If the attorney general, upon the 124  
review of a bill, determines that the bill, if enacted, would 125  
provide a reduction in a penalty, forfeiture, or punishment for 126  
an offense and if the bill is enacted, the attorney general 127  
shall send a written notice of that determination to the 128  
department of rehabilitation and correction and to the head of 129  
each local correctional facility. The notice shall identify the 130  
act and describe in detail the reduction. 131

Upon receipt of a notice from the attorney general under 132  
this division, the department and the head of the local 133

correctional facility, as applicable, shall provide a copy of 134  
the notice and a description of divisions (B) (2) and (C) of 135  
section 1.58 of the Revised Code to each person confined in an 136  
institution or facility under the control of the department or 137  
the head of the local correctional facility for a qualifying 138  
offense with respect to which the reduction applies. 139

**Section 2.** That existing section 1.58 of the Revised Code 140  
is hereby repealed. 141