

As Introduced

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H. B. No. 708

Representatives Davis, Seitz

**Cosponsors: Representatives Hillyer, West, Holmes, Ray, Upchurch, Denson,
Russo, Brown, White, Miller, A., Jarrells, Miller, J., Smith, M., Smith, K., Addison,
Click, Weinstein, Sheehy, Lightbody**

A BILL

To amend section 1.58 and to enact section 181.26 1
of the Revised Code to provide that if a penalty 2
for an offense has been imposed on an offender 3
and if the penalty for that offense is 4
subsequently reduced by a change in the Revised 5
Code or Constitution, the penalty previously 6
imposed on the offender may also be reduced. 7

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

Section 1. That section 1.58 be amended and section 181.26 8
of the Revised Code be enacted to read as follows: 9

Sec. 1.58. (A) As used in division (D) of this section: 10

(1) "Qualifying offense" means any offense, except for an 11
offense of violence, that is committed prior to, on, or after 12
the effective date of this amendment. 13

(2) "Reduction in a penalty, forfeiture, or punishment for 14
an offense" means any of the following: 15

(a) A change in the length or substance of the possible 16

prison term or jail term, or the range of possible prison terms 17
or jail terms, for the offense that shortens the possible term 18
or the range of possible terms or lessens the seriousness of the 19
substance; 20

(b) A change in the offense classification of the offense 21
that reduces the felony degree of the offense, reduces the 22
misdemeanor degree of the offense, or changes the offense from a 23
felony to a misdemeanor; 24

(c) A change in the length of a penalty, forfeiture, or 25
punishment provided for the offense, other than a change 26
described in division (A)(2)(a) or (b) of this section, that 27
shortens, makes less stringent, or otherwise reduces the 28
penalty, forfeiture, or punishment; 29

(d) The repeal of the prohibition under the offense that 30
the offender in question was convicted of committing or to which 31
the offender pleaded guilty. 32

(B) The reenactment, amendment, or repeal of a statute 33
does not, except as provided in division ~~(B)~~ (C) of this 34
section: 35

(1) Affect the prior operation of the statute or any prior 36
action taken thereunder; 37

(2) Affect any validation, cure, right, privilege, 38
obligation, or liability previously acquired, accrued, accorded, 39
or incurred thereunder; 40

(3) Affect any violation thereof or penalty, forfeiture, 41
or punishment incurred in respect thereto, prior to the 42
amendment or repeal; 43

(4) Affect any investigation, proceeding, or remedy in 44

respect of any such privilege, obligation, liability, penalty, 45
forfeiture, or punishment; and the investigation, proceeding, or 46
remedy may be instituted, continued, or enforced, and the 47
penalty, forfeiture, or punishment imposed, as if the statute 48
had not been repealed or amended. 49

~~(B)~~ (C) If the penalty, forfeiture, or punishment for any 50
offense is reduced by a ~~reenactment or amendment of a~~ 51
~~statute~~ change to the Revised Code or Ohio Constitution, and if 52
the penalty, forfeiture, or punishment, ~~if~~ has not already been 53
imposed, the penalty, forfeiture, or punishment shall be imposed 54
according to the ~~statute~~ Revised Code or Ohio Constitution, as 55
amended. 56

(D) (1) If the penalty, forfeiture, or punishment for any 57
offense is reduced by a change to the Revised Code or Ohio 58
Constitution, and if the penalty, forfeiture, or punishment has 59
already been imposed, upon application made under division (D) 60
(2) of this section by the offender who is subject to the 61
penalty, forfeiture, or punishment and a finding by the court as 62
described in division (D) (3) of this section, the penalty, 63
forfeiture, or punishment imposed on the offender shall be 64
modified in conformity with the reduced penalty, forfeiture, or 65
punishment according to the Revised Code or Ohio Constitution, 66
as amended. 67

(2) An offender who desires a reduction pursuant to 68
division (D) (1) of this section may apply to the court in which 69
the penalty, forfeiture, or punishment was imposed. The offender 70
may apply by using a sample application form as described in 71
division (B) of section 181.26 of the Revised Code, but is not 72
required to do so. Regardless of whether the offender applies by 73
using a sample application form, the court shall not deny an 74

application to reduce the penalty, forfeiture, or punishment 75
imposed on the offender solely because the application is not 76
complete. 77

(3) Within thirty days of receipt of the application the 78
court shall do one of the following: 79

(a) If the court finds that the change is a reduction in a 80
penalty, forfeiture, or punishment for an offense, that the 81
offense is a qualifying offense, and that the offender was 82
sentenced for that offense, the court shall grant the 83
application and reduce the penalty, forfeiture, or punishment 84
imposed on the offender as described in division (D)(1) of this 85
section. In determining the reduced penalty, forfeiture, or 86
punishment, the court shall comply with the purposes and 87
principles of sentencing in sections 2929.11 and 2929.21 of the 88
Revised Code and the factors for sentencing in sections 2929.12 89
and 2929.22 of the Revised Code. 90

(b) Absent a finding of the type described in division (D) 91
(3)(a) of this section, the court shall deny the application to 92
reduce the penalty, forfeiture, or punishment imposed on the 93
offender. 94

(4) In making the findings in division (D)(3) of this 95
section, the court may conduct a hearing. If the court conducts 96
a hearing, the court shall notify the offender, prosecuting 97
attorney, and victim of the application and the date, time, and 98
location of the hearing. The offender, prosecuting attorney, and 99
victim have the right to attend the hearing. 100

(5) After the reduction, the reduced penalty, forfeiture, 101
or punishment shall apply to the offender in substitution for 102
the original penalty, forfeiture, or punishment. 103

(6) If the offender is confined under the penalty, 104
forfeiture, or punishment and, after the reduction, the offender 105
has completed the reduced penalty, forfeiture, or punishment, 106
the offender shall be granted a final release and released from 107
the confinement. 108

(7) An order issued under division (D) (3) of this section 109
that grants or denies a reduction in a penalty, forfeiture, or 110
punishment for an offense is a final order under section 2505.02 111
of the Revised Code. If the clerk of the court has not completed 112
service of an order denying a reduction in a penalty, 113
forfeiture, or punishment for an offense within three days of 114
the order, the period for filing a notice of appeal begins to 115
run on the date the clerk of the court actually completes 116
service of the order. 117

Sec. 181.26. (A) As used in this section, "reduction in a 118
penalty, forfeiture, or punishment for an offense" has the same 119
meaning as in section 1.58 of the Revised Code. 120

(B) The state criminal sentencing commission shall 121
prescribe a sample application form that may be used under 122
division (D) (2) of section 1.58 of the Revised Code by a person 123
applying for a reduction in penalty, forfeiture, or punishment 124
for an offense under that division. 125

(C) The state criminal sentencing commission shall review 126
all enrolled acts enacted by the general assembly to determine 127
whether the act may provide a reduction in a penalty, 128
forfeiture, or punishment for an offense. If the state criminal 129
sentencing commission, upon the review of an act, determines 130
that the act may provide a reduction in a penalty, forfeiture, 131
or punishment for an offense, the state criminal sentencing 132
commission shall send both of the following to the state public 133

defender, each county public defender, and the correctional 134
institution inspection committee: 135

(1) Written notice that an act may provide a reduction in 136
a penalty, forfeiture, or punishment for an offense. If an act 137
may provide more than one reduction in a penalty, forfeiture, or 138
punishment for an offense, the written notice shall include all 139
of the possible reductions in a penalty, forfeiture, or 140
punishment for an offense. 141

(2) A sample application form as described in division (B) 142
of this section. 143

Section 2. That existing section 1.58 of the Revised Code 144
is hereby repealed. 145