



OHIO CRIMINAL SENTENCING COMMISSION

65-601 - FIDELITY STREET • EIGHTH FLOOR • COLUMBUS, OHIO 43215-3421 • TELEPHONE: 614.367.9306 • FAX: 614.367.3309

Budget Testimony on behalf of the Ohio Criminal Sentencing Commission Ohio Senate Finance Committee Wednesday, April 19, 2023

Chairman Dolan, Ranking Member Sykes, and Members of the Committee:

My name is Sara Andrews, and I am the Director of the Ohio Criminal Sentencing Commission (Commission). It is my honor to provide this comprehensive written testimony in support of the proposed budget for the Commission for Fiscal Years 2024-2025. I'm happy to address any questions you may have or provide additional information that may be helpful.

Background

In the early 1990's the General Assembly created the Ohio Criminal Sentencing Commission (Commission). The Commission is authorized under Sections 181.23 to 181.25 and 181.27 of the Ohio Revised Code, and is administratively within the Supreme Court of Ohio, and thus commonly referred to as an affiliated office of the Supreme Court of Ohio.

The Commission is statutorily tasked with monitoring, studying, reporting on, and recommending changes to the criminal sentencing policy and structure of the state. Over the last two decades, the Commission has issued a series of reports that served as the basis for several major sentencing bills enacted by the Ohio General Assembly.

It is also the only long-standing state agency that routinely brings together judges, prosecuting and defense attorneys, behavioral health professionals, academics, corrections officials, law enforcement, victims' advocates, community corrections experts, and others with a direct interest in criminal sentencing. Because of its broad and diverse membership, the Commission is well positioned to bridge the information gap among criminal justice system partners.

The recent impact and contribution of the Commission to criminal justice and sentencing legislative enactments as well as policy development and implementation is demonstrated in several ways such as the 133rd General Assembly assigned the Commission to perform specific duties when it enacted HB1-133.¹ It has further been given direction and assigned duties in task force reports such as the Supreme Court of Ohio Task Force on Conviction Integrity and Postconviction Review,² the Governor's Working Group on Post Release Control³, the Commission was assigned duties in HB166⁴ from the 134th General Assembly and in HB67, introduced February 27, 2023.⁵

¹ <https://www.legislature.ohio.gov/legislation/133/hb1>

² <https://www.supremecourt.ohio.gov/Boards/CIPR/Report.pdf>

³ https://content.govdelivery.com/attachments/OHIOGOVERNOR/2022/07/28/file_attachments/2230497/Post%20Release%20Report%20Update%20Final.pdf

⁴ <https://ohiohouse.gov/legislation/134/hb166>

⁵ <https://ohiohouse.gov/legislation/135/hb67>



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Accordingly, the General Assembly has authorized the steady, required budget increases for the Commission over the last several budget cycles. Together we have forged the path toward maximizing the Commission's unique niche in state government and its service to the citizens of the State of Ohio.

For instance, the Commission creates and maintains accessible, on-line reference guides and resources for practitioners including:

- [Felony Sentencing Reference Guide](#)
- [Adult Competency Reference Guide](#)
- [Drug Offense Reference Guide](#)
- [Adult Rights Restoration Guide](#)
- [SB201 – Reagan Tokes – Reference Guide](#)
- [HB1 Study and Impact \(HB1 – 133rd General Assembly\)](#)
- [COVID 19 and the Courts 2020: A Survey of Ohio Judges, Court Administrators, and Attorneys](#)

The Commission will also soon publish guides including:

- [Juvenile Competency Reference Guide](#)
- [Not Guilty by Reason of Insanity Reference Guide](#)

The Commission empanels diverse, inclusive working groups and ad hoc committees to study, report, and make recommendations on a wide variety of salient topics including record sealing, bail, pretrial services, and most recently felony sentencing structure. The Commission also routinely works with our colleagues across the country to examine criminal justice and sentencing topics to inform our efforts from a national perspective.

We monitor case law and legislation – analyzing and summarizing these for publication in the Commission's [Legislative and Judicial Brief](#). The Commission also creates, maintains, and distributes information regarding [Supreme Court of Ohio decisions](#), and we track and report on appellate decisions from each of the 12 appellate districts, summarizing decisions that pertain to sentencing.

These highlights of our work reflect our commitment to public service, our duty to serve as a vehicle for the betterment of Ohio's criminal justice system, and the Commission's vision to enhance justice and its mission to ensure fair sentencing in the state of Ohio.

Felony Sentencing

The Commission is accountable for proposing, vetting, and advancing the best and most impactful interests for fair sentencing and sound public policy. The expectation is, simply stated, proactive recommendations that change lives and reflect the purposes and principles of sentencing.

There are several current projects of the Commission that are consistent with our statutory duties and are aspirational but doable – the kind of work that is transformative, builds public trust in the justice system, and serves the citizens of Ohio.



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Uniform Entry Templates

Felony sentencing in Ohio is a complex, intricate process, and ensuring clear, comprehensible sentences is fundamental to the administration of justice and promotes confidence in the system. Thus, in September 2019 the Commission convened a Uniform Sentencing Entry Ad Hoc Committee to develop model, uniform felony sentencing entry templates with the minimum language necessary to comply with Criminal Rule 32 and the Ohio Revised Code. Giving Judges uniform sentencing entry templates ensures the entries always include the most recent requirements, either based on statute or case law and improve system efficiency.

The Commission works with a group of Judges to keep the uniform entry templates current with any necessary changes based upon case law or legislative enactments, notifies practitioners of those changes, and assists courts in their adoption of the uniform entry templates.

In addition to providing a method of minimizing appealable errors or omissions in entries, the development of uniform entry templates offers a solution for collecting criminal sentencing data in a way that is efficient, reduces duplication, and does not fiscally burden local government.

That solution is the uniform entry templates create standardized language across the State for sentencing, which doesn't exist today. The Court speaks through its entry. If all courts are using the uniform entry templates, they will all be speaking the same language which will, among other things, promote confidence in the system and (hopefully) improve understanding of the exceedingly complex sentencing structure for all of those involved, including the public.

The Commission conducted extensive research to identify a partner with the definitive knowledge, skills, and expertise to complete the numerous tasks required to create a web-based version of the uniform entry templates. As a portion of its research, the Commission engaged several programs and colleges within The Ohio State University, Case Western Reserve University, and the University of Cincinnati.

It was determined the University of Cincinnati School of Information & Technology Solutions Center (ITSC) was by far the best suited partner for this project. ITSC staff assigned to the project are equipped with the experience, subject matter expertise, and demonstrated ability to scale a complex statewide project needed to accomplish the goal at hand evidenced by agreements with other state agencies.

Ohio Sentencing Data Platform Pilot Project

Thus, the Commission contracted with the University of Cincinnati ITSC to create a web-based application of the uniform entry templates and establish a pilot project – the [Ohio Sentencing Data Platform \(OSDP\)](https://www.ohiosentencingdata.info/).⁶ The project began in 2020 and continues to be an “iterative” model – we adjust as we learn. As noted earlier, this pilot project is a cooperative effort with the input of many judges and court staff and importantly, the development of uniform entry templates offers a solution for collecting criminal sentencing data in a way that is efficient, reduces duplication, and does not fiscally burden local government.

⁶<https://www.ohiosentencingdata.info/>



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Judges or their staff in the pilot project log-in to the OSDP and create sentencing entries using the electronic version of the uniform entry templates, which include easily accessible options for the many categories required for felony sentencing. The applicable uniform entry template is then exported into a Word document, where it can be further customized, printed, signed, and filed with the Clerk of Court just as it is currently done today.

Presently, the OSDP pilot project has engaged 97 common pleas judges (40% of the 244 judges) from 48 counties (55% of the 88 counties). Of those judges engaged, there are 44 judges from 30 counties who have accounts on the project's staging environment. [The staging environment is a testing, draft, or working file for the user.] The judges added 95 staff members on the staging environment. They used three templates the most: Uniform Sentencing Entry, Disposition – Plea Entry, and Community Control Violator Entry.

One county has moved to production starting February 1, 2023. We do not have data on how many judges are filing the entries officially, but we do know judges and their staff are increasing usage of the system. In the December 2022 Judges' user group meeting, at least 3 judges indicated that they started filing the entry generated from the system as their official entry. At least one judge indicated using the system for all her cases. Judges using the system have consistently indicated significant efficiency gains in terms of effort and speed of making the entry available after the hearing.

Ohio Criminal Offense Code Portal

Further, the Commission, as part of the work being done for the OSDP pilot project, is in the process of digitizing the entirety of the criminal code in Ohio in collaboration with the Ohio Judicial Conference and the Ohio Legislative Services Commission. The effort is partially funded through a Federal Bureau of Justice Assistance grant awarded to the Commission by the Office of Criminal Justice Services, Ohio Department of Public Safety.

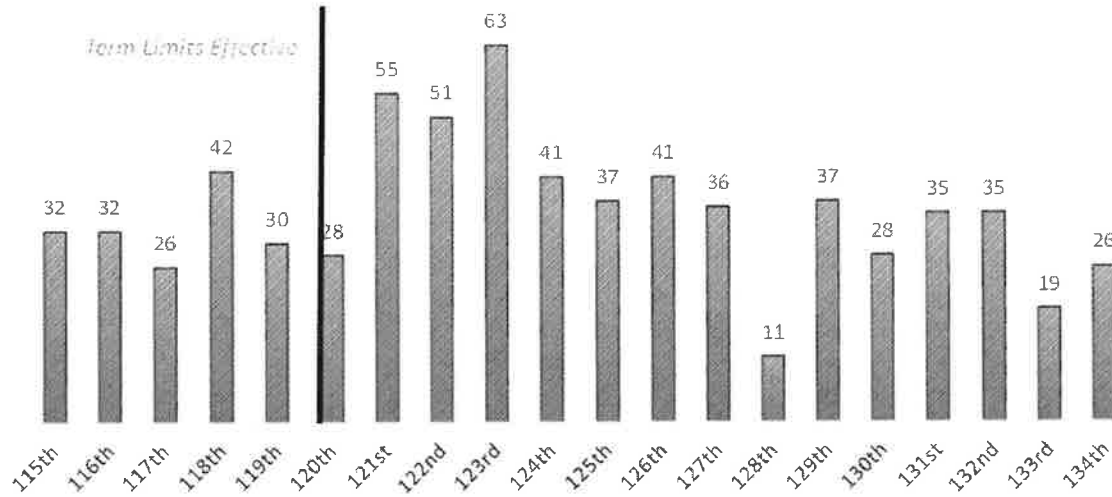
And as you likely well know, the effort is more than a monumental undertaking considering the complexity of the criminal code. The following charts reflect that fact.



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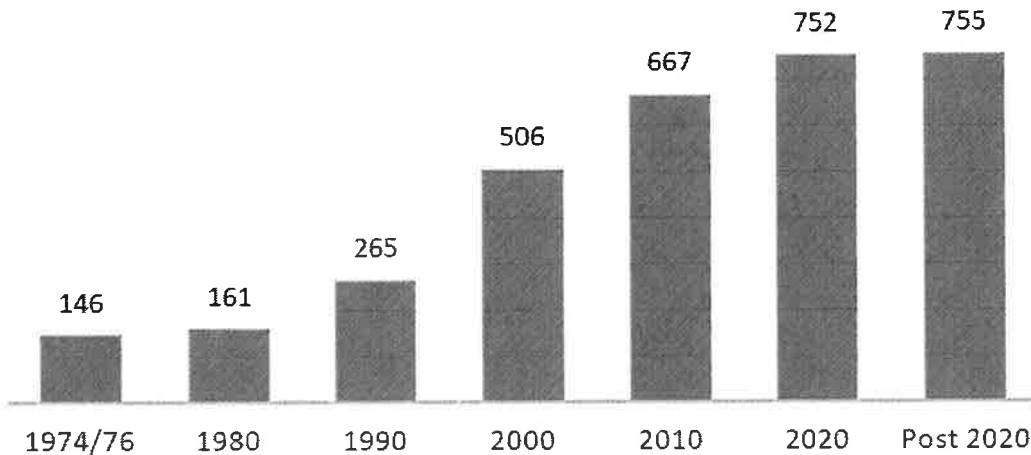
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Number of Bills Passed Modifying Title 29



Average number of changes per General Assembly, from 115th to 134th: over 35 (35.25).

Number of Felony Offenses in R.C. XXIX



The Ohio Criminal Offense Code portal is a game-changer for criminal justice collaboration, communication, and information sharing in Ohio – a non-proprietary, accessible digitized version of the Ohio Revised Code. It is a standardized, comprehensive presentation of criminal code sections which creates a common language to allow interagency connectivity – law enforcement, prosecutors, clerks, courts, probation departments, corrections departments, or any other agency that uses the Revised Code in their day-to-day operations.



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Felony Sentencing Structure

Felony sentencing in Ohio has become a highly complex procedure that is perceived to produce disparate results of similarly situated defendants. On the 25th anniversary of the passage of Senate Bill 2 (SB2), the “Truth in Sentencing” bill, the Commission conducted a roundtable discussion led by Reginald Wilkinson, EdD. This roundtable discussion prompted the creation of an ad hoc group, Sentencing Roundtable Workgroup (Workgroup). The goal of the Workgroup was to examine the sentencing system in Ohio and develop recommendations to improve the clarity and reduce the complexity of felony sentencing.

The Workgroup exercised due diligence in studying and reviewing sentencing options, listening to presentations on best practices, considering expert opinions, studying sentencing schemes in other states, and examining deficiencies in Ohio’s present sentencing structure. The Workgroup studied rehabilitative, retributive, and restorative models of sentencing and reached a consensus that a modified and modernized rehabilitative model, building on the Reagan Tokes Law, and utilizing indeterminate sentences, probation and parole would best promote the objectives of the purposes and principles of sentencing.

The Commission was presented with a draft report, *Felony Sentencing in Ohio: Then, Now, and Now What*, in December 2022. The report and recommendations were posted for public comment through February 1, 2023. The Commission reviewed those comments and revisions to the report at its meeting March 16, 2023 and will discuss further revisions and action at its next meeting (date to be determined).

The Budget

This budget is the ambitious and worthy combination of added personnel, operating expenses, and resources which will bring high return on investment.

The Commission currently has six full-time permanent staff – a director, assistant director, two criminal justice counsel, and two researchers. We also maximize student interns and graduate assistants. Each semester we are grateful for an average of 3-5 and as many as 9 student interns – law students and undergraduates from a wide range of colleges and universities – in and out of our great state.

Consistent with any permanent commission, it is critical to have both qualified staff and adequate funding to successfully complete designated tasks and duties. While we enthusiastically welcome students through internship opportunities and will continue to do so, we require more long term and sustainable resources to advance our work.

From the overview this afternoon, you see that our projects are increasingly more significant, impactful, and require statistical, criminal justice research-oriented expertise to ensure we meet our statutory tasks of monitoring, studying, reporting on, and recommending changes to the criminal sentencing policy and structure of the state.

The day-to-day operating expenses of the Commission have increased commensurate with the increase in staffing and the persistent work of a vibrant Commission. Those expenses are expected to increase given the breadth of the work associated with:



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- The Felony Sentencing Report & Recommendations
- Resource and reference guide production
- Legislative analysis and impact study
- Reporting on Supreme Court of Ohio and Appellate District decisions
- Delivery of educational opportunities for practitioners
- Public education
- More courts adopting the uniform entry templates and joining the OSDP pilot project

Additional personnel requested in FY2024 include one administrative support position, two program managers to make site visits, deliver training, provide public education, produce additional resource, and reference guides, and one data base administrator to manage data stewardship, including data validation/quality assurance, contextual data explanation, and responding to questions from practitioners and stakeholders.

In FY2025 two positions are requested, an additional data base administrator and a policy counsel to provide guidance to the Commission in its operation, execution of memorandums of agreement, and other general duties associated with the statutory mandates of the Commission.

To further develop the Ohio Sentencing Data Platform in 2024-2025, the proposed budget is \$800,000 each fiscal year or \$1.6m for the biennium. Notably, for the next biennial budget cycle and thereafter we can reduce to \$250,000 annually for ongoing maintenance and system enhancements.

The increased resources will accelerate program development and efficiency while also achieving outcomes with a reasoned, deliberate ongoing implementation strategy for the uniform entry templates. We anticipate with the increased funding we will, among other things:

- Expand the pilot to include additional counties and Judges
- Provide training to court staff
- Incorporate system intelligence to assist users with “pop-ups” and tutorial information
- Provide a full suite of template entries and forms with customization options
- Fully develop the comprehensive, mission-critical offense code portal
- Refine seamless system integration with Ohio Courts Network and local case management systems

Conclusion

One of the primary goals with everything we do at the Commission is to bridge the gap – help the public understand the dynamics of sentencing, assist practitioners in the administration of the law, and create consumable, plain spoken resources.

Borrowing from our friends at the Pennsylvania Commission on Sentencing, “Sentencing is the lynchpin of the criminal justice system. Sentencing influences – and is influenced by – events that happen both earlier and later in the chronological progression of a criminal case. Understanding the relationships between those events is



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crucial.” There is much more to a sentence than a headline or a number. And you also may have noticed, there is no elevator speech for this work – it is painstakingly complex.

In closing, we have the perfect opportunity to reset the Commission consistent with its statutory authority and with the leadership of Chief Justice Kennedy as its Chair. The Commission will achieve its legislative obligations and serve the public by transforming the complexity of sentencing to understandable, standardized, common language – and we will

- Help Judges by providing up-to-date sentencing entry templates
- Give practitioners usable reference guides and resources
- Develop non-proprietary access to a comprehensive digitized revised code
- Set a path toward a modified and modernized rehabilitative model of sentencing commiserate with the objectives of the purposes and principles of sentencing
- Tell the story of sentencing with context necessary to appreciate local control
- Answer simple questions about sentencing outcomes for Ohio that have lingered unanswered for decades – like:
 1. How many people were convicted of felonies in Ohio in a given time period.
 2. What percent of convictions for each offense level is sentenced to prison versus community control?
 3. What were the range of sentences for defendants convicted of violating a particular offense code (e.g., 2925.11(A) or 2925.11(C)(1)(b))?
- Turn the tide on available sentencing data that focuses only on those people sentenced to prison. For example, in 2022:
 - Incoming criminal cases (Common Pleas): 86,280
 - Criminal Cases Disposed through Trial or Plea (Common Pleas): 51,704
 - Commitments to the Department of Rehabilitation & Correction: 14,310If all of those who went to trial were convicted, that leaves roughly 37,394 people that weren’t sent to prison.

Your consideration of our budget request is appreciated. Thank you for the opportunity to submit written testimony.