As Introduced

135th General Assembly

Regular Session

H. B. No. 67

2023-2024

Representatives Seitz, Williams

Cosponsors: Representatives Hillyer, Humphrey, Stewart, Isaacsohn, Klopfenstein, Brewer

A BILL

То	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 to the Revised	5
	Code or Constitution, the penalty previously	6
	imposed on the offender may 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
<pre>felony to a misdemeanor;</pre>	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
<pre>penalty, forfeiture, or punishment;</pre>	29
(d) The repeal of the prohibition under the offense that	30
the offender in question was convicted of committing or to which	
the offender pleaded guilty.	32
(B) The reenactment, amendment, or repeal of a statute	33
does not, except as provided in division $\frac{B}{C}$ 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

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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
statutechange 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) Except as provided in division (E) of this section,	57
if the penalty, forfeiture, or punishment for any offense is	58
reduced by a change to the Revised Code or Ohio Constitution,	59
and if the penalty, forfeiture, or punishment has already been	60
imposed, upon application made under division (D)(2) of this	61
section by the offender who is subject to the penalty,	62
forfeiture, or punishment and a finding by the court as	63
described in division (D)(3) of this section, the penalty,	64
forfeiture, or punishment imposed on the offender shall be	65
modified in conformity with the reduced penalty, forfeiture, or	66
punishment according to the Revised Code or Ohio Constitution,	67
as amended.	68
(2) An offender who desires a reduction pursuant to	69
division (D)(1) of this section may apply to the court in which	70
the penalty, forfeiture, or punishment was imposed. The offender	71
may apply by using a sample application form as described in	72
division (B) of section 181.26 of the Revised Code, but is not	73
required to do so. Regardless of whether the offender applies by	74

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using a sample application form, the court shall not deny an	75
application to reduce the penalty, forfeiture, or punishment	
imposed on the offender solely because the application is not	77
complete.	78
(3) Within thirty days of receipt of the application the	79
<pre>court shall do one of the following:</pre>	80
(a) If the court finds that the change is a reduction in a	81
penalty, forfeiture, or punishment for an offense, that the	82
offense is a qualifying offense, that the offender was sentenced	83
for that offense, and that the penalty, forfeiture, or	84
punishment was not imposed pursuant to a negotiated plea	85
agreement as described in division (E) of this section, the	86
court shall grant the application and reduce the penalty,	87
forfeiture, or punishment imposed on the offender as described	88
in division (D)(1) of this section. In determining the reduced	89
penalty, forfeiture, or punishment, the court shall comply with	90
the purposes and principles of sentencing in sections 2929.11	
and 2929.21 of the Revised Code and the factors for sentencing	
in sections 2929.12 and 2929.22 of the Revised Code.	93
(b) Absent a finding of the type described in division (D)	94
(3) (a) of this section, the court shall deny the application to	95
reduce the penalty, forfeiture, or punishment imposed on the	96
offender.	97
(4) In making the findings in division (D)(3) of this	98
section, the court may conduct a hearing. If the court conducts	99
a hearing, the court shall notify the offender, prosecuting	100
attorney, and victim of the application and the date, time, and	101
location of the hearing. The offender, prosecuting attorney, and	102
victim have the right to attend the hearing.	103

(5) After the reduction, the reduced penalty, forfeiture,	104
or punishment shall apply to the offender in substitution for	105
the original penalty, forfeiture, or punishment.	106
(6) If the offender is confined under the penalty,	107
forfeiture, or punishment and, after the reduction, the offender	108
has completed the reduced penalty, forfeiture, or punishment,	109
the offender shall be granted a final release and released from	110
the confinement.	111
(7) An order issued under division (D)(3) of this section	112
that grants or denies a reduction in a penalty, forfeiture, or	113
punishment for an offense is a final order under section 2505.02	114
of the Revised Code. If the clerk of the court has not completed	115
service of an order denying a reduction in a penalty,	116
forfeiture, or punishment for an offense within three days of	117
the order, the period for filing a notice of appeal begins to	118
run on the date the clerk of the court actually completes	119
service of the order.	120
(E) The provisions in division (D) of this section do not	121
apply to a penalty, forfeiture, or punishment that was imposed	122
pursuant to a negotiated plea agreement.	123
Sec. 181.26. (A) As used in this section, "reduction in a	124
penalty, forfeiture, or punishment for an offense" has the same	125
meaning as in section 1.58 of the Revised Code.	126
(B) The state criminal sentencing commission shall	127
prescribe a sample application form that may be used under	128
division (D)(2) of section 1.58 of the Revised Code by a person	129
applying for a reduction in penalty, forfeiture, or punishment	130
for an offense under that division.	131
(C) The state criminal sentencing commission shall review	132

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all enrolled acts enacted by the general assembly to determine	133
whether the act may provide a reduction in a penalty,	134
forfeiture, or punishment for an offense. If the state criminal	135
sentencing commission, upon the review of an act, determines	136
that the act may provide a reduction in a penalty, forfeiture,	137
or punishment for an offense, the state criminal sentencing	138
commission shall send both of the following to the state public	139
defender, each county public defender, and the correctional	140
<pre>institution inspection committee:</pre>	141
(1) Written notice that an act may provide a reduction in	142
a penalty, forfeiture, or punishment for an offense. If an act	143
may provide more than one reduction in a penalty, forfeiture, or	144
punishment for an offense, the written notice shall include all	145
of the possible reductions in a penalty, forfeiture, or	146
punishment for an offense.	
(2) A sample application form as described in division (B)	148
of this section.	149
Section 2. That existing section 1.58 of the Revised Code	150
is hereby repealed.	151