

# OHIO PROSECUTING ATTORNEYS ASSOCIATION

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HB-49; Budget Bill  
Interested Party Testimony  
June 1, 2017  
Senate Finance Committee

Our association opposes the provision in the budget bill that would preclude sentencing a fifth degree felon to prison for less than twelve months, except for an offense of violence, a sex offense, an offense requiring a mandatory term, and certain other exemptions in the bill.

First, while this change would no doubt have a budgetary impact, this is a substantive change in criminal sentencing law and should not part of a budget bill.

Second, the legislature should not tie the court's hands in this way. It is almost unheard of for a court to sentence a fifth degree felon to prison without first trying some other sanction. When the defendant repeatedly fails on community control, which is not uncommon, the court must have the prison option available. We understand DRC's frustration with short term commitments, but sometimes the court has no alternative.

Third, if the case involves treatment for drug addiction, I am told by those who do this that it is very difficult to get some defendants to cooperate in the treatment program without a threat of prison time. If these persons know that the court cannot impose prison time, the incentive to seriously commit to make a real effort is lost.

Fourth, we generally disagree with the idea of adopting the Reclaim Ohio kind of process to adult felony sentencing. We believe that the courts should impose sentence based on the seriousness of the offense, public safety, the nature of the offender, and other relevant factors - we should not adopt a process that requires the court to make tradeoffs with respect to the court's budget.

We agree that many offenses now categorized as fifth degree felonies should be misdemeanors. We have opposed increasing the penalty for many of these offenses. But now that they are on the books, we must not take from the court the authority to deal with them effectively.

We also oppose granting credit for completion of GED and other programs. Those who have a genuine interest don't need this incentive and we already have earned credit for attendance.

We oppose these provisions and urge the committee to remove them from the budget bill.