

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 67

Representatives Seitz, Williams

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

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 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
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) 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

using a sample application form, the court shall not deny an 75
application to reduce the penalty, forfeiture, or punishment 76
imposed on the offender solely because the application is not 77
complete. 78

(3) Within thirty days of receipt of the application the 79
court shall do one of the following: 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 91
and 2929.21 of the Revised Code and the factors for sentencing 92
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

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
institution inspection committee: 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. 147

(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