

## **44<sup>th</sup> House District**

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## **Elgin Rogers, Jr. State Representative**

## **Committees**

Armed Services and Veterans  
Affairs  
Energy and Natural Resources  
Infrastructure  
Transportation  
Ways and Means

Chairwoman Abrams, Ranking Member Brown, and members of the Criminal Justice Committee, thank you for allowing us to present sponsor testimony on House Bill 234 which would prohibit courts from considering whether an offender who has entered an Alford plea shows remorse for their offense when imposing a sentence.

This is a commonsense change to the language of the Ohio Revised Code to ensure that defendants are not unfairly punished for not showing remorse when they have entered a plea under which they maintain their innocence. Under an Alford plea, a defendant acknowledges that the state has enough evidence to obtain a conviction in trial even if they are innocent. Under this plea, the defendant does not admit guilt. As currently stands, courts may consider the lack of an admission of guilt as a lack of remorse and use this when considering sentencing. Since the maintenance of innocence is an inherent characteristic of the Alford plea, it does not make sense for that maintenance of innocence to then be held against them in their sentencing.

The Alford Plea originated from the case of the State of North Carolina v. Alford.<sup>1</sup> In North Carolina v. Alford, Henry Alford was charged with first-degree murder, a charge that carried a sentence of either the death penalty or life imprisonment. Alford plead guilty to second-degree murder and testified that he was innocent and did so only to avoid the death penalty.<sup>2</sup> After a set of appeals

brought the case to the US Supreme Court, the court ruled that Alford's plea was constitutional and that there was no issue with him making a decision that he had found to be of his best interest based on competent counsel.<sup>2</sup>

Alford pleas are allowed in all U.S. states other than Indiana, Michigan, and New Jersey.<sup>3</sup> Courts in Ohio, including the Supreme Court of Ohio, have referenced *North Carolina v. Alford* and upheld and tailored the usage of the Alford plea in a variety of cases including: *State v. Piacella*,<sup>4</sup> *State v. Schmidt*,<sup>5</sup> *State v. Vogelsong*,<sup>6</sup> and *State v. Battigaglia*.<sup>7</sup>

Given the history and usage of the Alford plea in the State of Ohio and across the country, we would urge you to consider making this commonsense change to the language of the Ohio Revised Code that would rectify the way that our courts consider Alford pleas. Thank you for the opportunity to testify on House Bill 234, I will now turn it over to Representative Williams.

1. [https://www.law.cornell.edu/wex/alford\\_plea](https://www.law.cornell.edu/wex/alford_plea)
2. <https://www.oyez.org/cases/1970/14>
3. <https://www.hg.org/legal-articles/alford-plea-what-is-it-and-which-states-use-it-49755#:~:text=The%20Alford%20plea%20is%20available,the%20factors%20of%20the%20case.>
4. *State v. Piacella*, 27 Ohio St. 2d 92, 271 N.E.2d 852, 1971 Ohio LEXIS 452, 56 Ohio Op. 2d 52 (Supreme Court of Ohio July 7, 1971, Decided ). <https://advance-lexis-com.proxy.lib.ohio-state.edu/api/document?collection=cases&id=urn:contentItem:3RRM-SP70-003C-60GB-00000-00&context=1516831>.

5. State v. Schmidt, 2010-Ohio-4809, 2010 Ohio App. LEXIS 4062, 2010 WL 3836161 (Court of Appeals of Ohio, Third Appellate District, Mercer County October 4, 2010, Date of Decision). <https://advance-lexis-com.proxy.lib.ohio-state.edu/api/document?collection=cases&id=urn:contentItem:515D-18G1-652N-R00B-00000-00&context=1516831>.
6. State v. Vogelsong, 2007-Ohio-4935, 2007 Ohio App. LEXIS 4617 (Court of Appeals of Ohio, Third Appellate District, Hancock County September 24, 2007, Date of Judgment Entry). <https://advance-lexis-com.proxy.lib.ohio-state.edu/api/document?collection=cases&id=urn:contentItem:4PTF-PS10-TX4N-G0TG-00000-00&context=1516831>.
7. State v. Battigaglia, 2010-Ohio-802, 2010 Ohio App. LEXIS 659 (Court of Appeals of Ohio, Sixth Appellate District, Ottawa County March 5, 2010, Decided). <https://advance-lexis-com.proxy.lib.ohio-state.edu/api/document?collection=cases&id=urn:contentItem:7XY1-HWH0-YB0T-5000-00000-00&context=1516831>.