

41ST HOUSE DISTRICT

LUCAS COUNTY

Committees

Vice Chair Criminal Justice,
Higher Education, Primary and
Secondary Education, Economic
and Workforce Development



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**State Representative Joshua E. Williams
Ohio House of Representatives**

Chairman Abrams, Ranking Member Brown, and fellow members of the House Criminal Justice Committee, thank you for the opportunity to offer sponsor testimony with my colleague and joint sponsor Representative Seitz on House Bill 67.

As Representative Seitz explained, the first intent of this bill is to offer offenders the opportunity to retroactively reduce or reclassify their sentences for only qualifying offenses, excluding certain violent crimes, if the general assembly has subsequently passed new legislation that reduces the penalty for the crime they committed or eliminates the crime altogether.

The second intent of this bill is to address an inconsistency in criminal sentencing that is cause for confusion in our courts. Current law¹ states that when a statute is amended such that the penalty, forfeiture, or punishment for an offense is decreased, the sentence shall be determined by the new statute if the sentence has not yet been handed down. However, the law is insufficiently clear that the same should occur if a criminal offense has been taken off the books.

¹ Section 1.58 (B)

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This bill will clarify in the criminal code that the elimination of a statute would have the same effect on sentencing determination as an amendment of the statute to provide a lesser penalty. In some recent cases, the relevant section of the code² has been interpreted to mean that offenders may be sentenced by the newly legislated penalty structure only in the case that the penalty has been reduced and not in the case that the statute has been eliminated.

I can attest to the necessity of this bill as a criminal defense attorney, as I have been a part of a criminal case in which the interpretation of this statute was in question. In this case, which my client has consented to allow me to discuss, the client was charged with improper handling of a firearm in a motor vehicle. However, before my client was sentenced, constitutional carry became law, repealing the provision³ that made it a crime to have access to a loaded firearm in a vehicle without a permit. However, instead of sentencing my client according to the new statute, the court decided that the statute regarding amended sentences did not apply in this case, as the statute was effectively eliminated when applied to qualified adults and the penalty for the offence was not explicitly reduced.

² Section 1.58 (B)

³ 2923.16

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We believe that this bill will clarify sentencing issues such as this one in the future and will allow the wishes of the people of Ohio and the General Assembly to be realized more comprehensively in our criminal and civil code.