



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 67  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Seitz and Williams

Sarah A. Maki, Attorney

### SUMMARY

- Provides that if a penalty, forfeiture, or punishment for any offense is reduced by a change to the Revised Code or Ohio Constitution, and if the penalty, forfeiture, or punishment has not already been imposed, the penalty, forfeiture, or punishment must be imposed according to the Revised Code or Ohio Constitution, as amended.
- Provides that if a penalty, forfeiture, or punishment for any offense is reduced by a change to the Revised Code or Ohio Constitution, and if the penalty, forfeiture, or punishment has already been imposed, in specified circumstances, the penalty, forfeiture, or punishment must be modified in conformity with the Revised Code or Ohio Constitution, as amended.
- Allows an offender who desires a reduction in a penalty, forfeiture, or punishment for an offense to apply to the court in which the penalty, forfeiture, or punishment was imposed.
- Requires the court to grant the application and reduce the penalty, forfeiture, or punishment imposed on the offender if the court finds all of the following:
  - The change is a reduction in a penalty, forfeiture, or punishment for an offense;
  - The offense is a qualifying offense;
  - The offender was sentenced for the offense;
  - The penalty, forfeiture, or punishment was not imposed pursuant to a negotiated plea agreement.
- Requires the court to notify the offender, prosecuting attorney, and victim of the application and the date, time, and location of the hearing and gives the offender, prosecuting attorney, and victim the right to attend the hearing.

- Specifies that after the reduction, the reduced penalty, forfeiture, or punishment must apply to the offender in substitution for the original penalty, forfeiture, or punishment.
- Specifies that after the reduction, if the offender is confined under the penalty, forfeiture, or punishment and the offender has completed the reduced penalty, forfeiture, or punishment, the offender must be granted a final release and released from confinement.
- Provides that an order that grants or denies a reduction in a penalty, forfeiture, or punishment for an offense is a final order.
- Specifies that the provisions of the bill that apply if the penalty, forfeiture, or punishment for any offense is reduced by a change to the Revised Code or Ohio Constitution, and if the penalty, forfeiture, or punishment has already been imposed, do not apply if the penalty, forfeiture, or punishment was imposed pursuant to a negotiated plea agreement.
- Requires the State Criminal Sentencing Commission to prescribe a sample application form that may be used by a person applying for a reduction in a penalty, forfeiture, or punishment for offense.
- Requires the State Criminal Sentencing Commission to review enrolled acts to determine if the act provides a reduction in a penalty, forfeiture, or punishment for an offense and if so, provide the State Public Defender, each county public defender, and the Correctional Institution Inspection Committee with notice of a possible reduction.

---

---

## **DETAILED ANALYSIS**

### **Penalty, forfeiture, or punishment that has not been imposed**

The bill provides that if a penalty, forfeiture, or punishment for any offense is reduced by a change to the Revised Code or Ohio Constitution, and if the penalty, forfeiture, or punishment has not already been imposed, the penalty, forfeiture, or punishment must be imposed according to the Revised Code or Ohio Constitution, as amended. Under current law, if a penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute, as amended.<sup>1</sup>

### **Penalty, forfeiture, or punishment that has been imposed**

The bill provides that if the penalty, forfeiture, or punishment for any offense is reduced by a change to the Revised Code or Ohio Constitution, and if the penalty, forfeiture, or punishment has already been imposed, upon application by the offender who is subject to the penalty, forfeiture, or punishment and a finding by the court, the penalty, forfeiture, or

---

<sup>1</sup> R.C. 1.58(C).

punishment imposed on the offender must be modified in conformity with the reduced penalty, forfeiture, or punishment according to the Revised Code or Ohio Constitution, as amended.<sup>2</sup>

### **Application**

The bill allows an offender who desires a reduction to apply to the court in which the penalty, forfeiture, or punishment was imposed. The offender may apply by using a sample application (see, “**Sample application form**,” below) prescribed by the State Criminal Sentencing Commission (SCSC), but it is not required to do so. Regardless of whether the offender applies by using a sample application form, the court must not deny an application to reduce the penalty, forfeiture, or punishment imposed on an offender solely because the application is not complete.<sup>3</sup>

### **Finding by the court**

The bill requires that, within 30 days of the receipt of the application, the court do one of the following:<sup>4</sup>

- If the court finds that the change is a “reduction in a penalty, forfeiture, or punishment for an offense” (see, “**Definitions**,” below), that the offense is a “qualifying offense” (see, “**Definitions**,” below), that the offender was sentenced for the offense, and that the penalty, forfeiture, or punishment was not imposed pursuant to a negotiated plea agreement, the court must grant the application and reduce the penalty, forfeiture, or punishment imposed on the offender. In determining the reduced penalty, forfeiture, or punishment the court must comply with the purposes and principles of sentencing set forth in the Felony Sentencing Law and the Misdemeanor Sentencing Law and the factors for sentencing set forth in the Felony Sentencing Law and the Misdemeanor Sentencing Law.
- Absent a finding of the type described above, the court must deny the application to reduce the penalty, forfeiture, or punishment imposed on the offender.

### **Hearing**

In making the above findings, the bill allows the court to conduct a hearing. If the court conducts a hearing, the court must notify the offender, prosecuting attorney, and victim of the application and the date, time, and location of the hearing. The offender, prosecuting attorney, and victim have the right to attend the hearing.<sup>5</sup>

---

<sup>2</sup> R.C. 1.58(D)(1).

<sup>3</sup> R.C. 1.58(D)(2).

<sup>4</sup> R.C. 1.58(D)(3).

<sup>5</sup> R.C. 1.58(D)(4).

## **Reduction**

The bill specifies that after the reduction, the reduced penalty, forfeiture, or punishment must apply to the offender in substitution for the original penalty, forfeiture, or punishment. If the offender is confined under the penalty, forfeiture, or punishment and, after the reduction, the offender has completed the reduced penalty, forfeiture, or punishment, the offender must be granted a final release and released from confinement.<sup>6</sup>

## **Final order**

The bill provides that an order that grants or denies a reduction in a penalty, forfeiture, or punishment for an offense is a final order. If the clerk of the court has not completed service of an order denying a reduction in a penalty, forfeiture, or punishment for an offense within three days of the order, the period for filing a notice of appeal begins to run on the date the clerk actually completes service of the order.<sup>7</sup>

## **Negotiated plea agreement**

The provisions of the bill that apply if the penalty, forfeiture, or punishment for any offense is reduced by a change to the Revised Code or Ohio Constitution, and if the penalty, forfeiture, or punishment has already been imposed, do not apply if the penalty, forfeiture, or punishment was imposed pursuant to a negotiated plea agreement.<sup>8</sup>

## **State Criminal Sentencing Commission duties**

### **Sample application form**

The bill requires the SCSC to prescribe a sample application form that may be used by a person applying for a reduction in a penalty, forfeiture, or punishment for offense (see, “**Application**,” above).<sup>9</sup>

### **Review enrolled acts**

The bill requires the SCSC to review all enrolled acts enacted by the General Assembly to determine whether the act may provide a reduction in a penalty, forfeiture, or punishment for an offense. If the SCSC, upon review of the act, determines that the act may provide a reduction in a penalty, forfeiture, or punishment for an offense, the SCSC must send both of the following to the State Public Defender, each county public defender, and the Correctional Institution Inspection Committee:<sup>10</sup>

---

<sup>6</sup> R.C. 1.58(D)(5) and (6).

<sup>7</sup> R.C. 1.58(D)(7).

<sup>8</sup> R.C. 1.58(E).

<sup>9</sup> R.C. 181.26(B).

<sup>10</sup> R.C. 181.26(C).

- Written notice that an act may provide a reduction in a penalty, forfeiture, or punishment for an offense. If an act may provide for more than one reduction in a penalty, forfeiture, or punishment for an offense, the written notice must include all of the possible reductions in a penalty, forfeiture, or punishment for an offense.
- A sample application form (see, “**Sample application form**,” above).

## Definitions

The bill defines the following terms:<sup>11</sup>

- “**Qualifying offense**” means any offense, except for an offense of violence, that is committed prior to, on, or after the effective date of the bill.
- “**Reduction in a penalty, forfeiture, or punishment for an offense**” means any of the following:
  - A change in the length or substance of the possible prison term or jail term, or the range of possible prison terms or jail terms, for the offense that shortens the possible term or the range of possible terms or lessens the seriousness of the substance;
  - A change in the offense classification of the offense that reduces the felony degree of the offense, reduces the misdemeanor degree of the offense, or changes the offense from a felony to a misdemeanor;
  - A change in the length of a penalty, forfeiture, or punishment provided for the offense, other than one of the changes listed above, that shortens, makes less stringent, or otherwise reduces the penalty, forfeiture, or punishment;
  - The repeal of the prohibition under the offense that the offender in question was convicted of committing or to which the offender pleaded guilty.

---

## HISTORY

Action	Date
Introduced	02-27-23

ANHB0067IN-135/ts

---

<sup>11</sup> R.C. 1.58(A) and 181.26(A).