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H.B. 234
135th General Assembly

Final Analysis

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Primary Sponsors: Reps. Williams and Rogers, Jr.

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SUMMARY

Alford pleas

- Prohibits a court, when determining an appropriate sentence when an offender enters an Alford plea, from considering whether an offender showed genuine remorse for an offense.

Sealing and expungement

- Allows for multiple third degree felonies to be treated as a single conviction for purposes of sealing and expungement under certain circumstances.
- Eliminates eligibility for sealing or expungement of a conviction for theft in office.
- Allows an offender to seal, but not expunge, a conviction record for third degree misdemeanor domestic violence or a conviction record for violating a protection order.

Suspension of local officials

- Renames the defined term “prosecuting attorney” to “prosecuting officer” and expands the term to include the Attorney General and special prosecutors.
- Permits federal prosecutors to serve as prosecuting officers at the federal prosecutor’s own volition.
- Specifies timelines under this provision.
- Changes the recipient of certain documents and notices from the Chief Justice of the Supreme Court to the Clerk of the Supreme Court.

DETAILED ANALYSIS

Sealing and expungement

The act makes several changes that affect the eligibility of offenses for sealing or expungement under Ohio's Sealing and Expungement Law.¹

Multiple third degree felonies

Continuing law prohibits the sealing or expungement of a third degree felony conviction if the offender has more than one other conviction of any felony or if the offender has exactly two third degree felony convictions and has more convictions in total than those two third degree felony convictions and two misdemeanor convictions.²

The act requires multiple convictions to be treated as a single conviction for purposes of sealing and expungement eligibility if the convictions result from or are connected with the same act or result from offenses committed at the same time.³

The act also allows for two or three convictions to be treated as a single conviction for purposes of sealing and expungement eligibility when those convictions result from the same indictment, information, or complaint, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts that were committed within a three-month period but do not result from the same act or from offenses committed at the same time. But this provision does not apply if the court determines that counting the two or three convictions as one conviction would not be in the public interest.⁴

Theft in office

The act adds the offense of "theft in office" to the list of convictions that are not eligible for sealing or expungement under continuing law.⁵

Domestic violence and violating a protection order

Continuing law generally prohibits the sealing or expungement of domestic violence convictions but allows for the sealing but not expungement of a fourth degree misdemeanor domestic violence conviction. The act expands eligibility for sealing but not expungement to include third degree misdemeanor convictions of domestic violence and convictions for violating a protection order.⁶

¹ R.C. 2953.32.

² R.C. 2953.32(A)(1)(h).

³ R.C. 2953.32(A)(1)(h) and (3)(a).

⁴ R.C. 2953.32(A)(3)(b) and (D)(1)(i).

⁵ R.C. 2953.32(A)(1)(e) and 2921.41, not in the act.

⁶ R.C. 2953.32(A)(1)(g) and (2) and 2919.27, not in the act.

Use of Alford plea in felony sentencing

Continuing law gives a court that imposes a felony sentence upon an offender discretion to determine the most effective way to comply with the purposes and principles of felony sentencing. In exercising that discretion, the court must consider certain factors, including factors related to the seriousness of the conduct and related to the likelihood of the offender's recidivism. The act includes a requirement that the court consider the factors related to Alford pleas.⁷

One factor that a court imposing a felony sentence must consider when determining whether an offender is likely or not likely to commit future crimes is if the offender shows genuine remorse for the offense.⁸ The act provides that, if an offender enters an Alford plea, the court is prohibited from considering whether the offender showed genuine remorse for the offense.⁹

Use of Alford plea in misdemeanor sentencing

Continuing law gives a court that imposes a misdemeanor sentence upon an offender discretion to determine the most effective way to comply with the purposes and principles of misdemeanor sentencing. In exercising that discretion, the court must consider certain factors, including the nature and circumstances of the offense or offenses, whether the offender has a history of persistent criminal activity and if there is a substantial risk that the offender will commit another offense, and whether the offender will be a danger to others. The act provides that, in determining the appropriate sentence for a misdemeanor, if the offender enters an Alford plea, the sentencing court is prohibited from considering whether the offender showed genuine remorse for the offense.¹⁰

Suspension of local officials

Under continuing law, a county prosecuting attorney must initiate a process to suspend a local official if that official is charged with a felony in connection with their official duties. The act extends this duty to the Attorney General and special prosecutors designated by the county prosecuting attorney. The act also permits a federal prosecutor to initiate the suspension process at the federal prosecutor's discretion.

Under continuing law, certain events, such as the receipt by the Supreme Court of a request to begin suspension proceedings, trigger other actions or options that must or may be completed within a certain number of days. The act specifies that the prescribed periods of time do not begin to run until the day after the event that triggers the period. The act further specifies that periods of time do include the last day of the period, unless it is a Saturday, Sunday, or legal

⁷ R.C. 2929.12(A); an Alford plea is a guilty plea entered by a criminal defendant who does not admit guilt but nevertheless pleads guilty as part of a plea bargain.

⁸ R.C. 2929.12(E)(5).

⁹ R.C. 2929.12(G).

¹⁰ R.C. 2929.22(A) and (B).

holiday, in which case the period runs on the next day that is not a Saturday, Sunday, or legal holiday.

The act changes the recipient of certain documents to the Clerk of the Supreme Court of Ohio. Under former law, certain documents were required to be transmitted to the Chief Justice of the Supreme Court of Ohio.¹¹

HISTORY

Action	Date
Introduced	06-30-23
Reported, H. Criminal Justice	04-24-24
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¹¹ R.C. 3.16.