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Reference & Research Citations
Ohio Sentencing Reform House Bill 86
129th. General Assembly 2011

Reforms intended to reduce the amount of public funds used to operate state prisons, to reduce the number of offenders in prison for violation of low to moderate level offenses, to increase the availability of community control sanctions, to provide the right to a jury determination of all significant facts consistent with the U.S. and Ohio Constitutions, and to reform the juvenile justice system.

Text of House Bill 86 (420 pp. PDF) @ http://www.legislature.state.oh.us/BillText129/129_HB_86_EN_N.pdf
Legislative Service's analysis @ <http://www.lsc.state.oh.us/analyses129/h0086-rs-129.pdf>

Amending sections 109.42, 307.93, 309.18, 341.12, 926.99, 1333.99, 1707.99, 1716.99, 2151.23, 2152.02, 2152.021, 2152.12, 2152.13, 2152.14, 2152.17, 2152.22, 2301.27, 2301.30, 2717.01, 2743.51, 2743.56, 2743.59, 2743.60, 2901.08, 2903.01, 2903.11, 2903.12, 2903.13, 2905.01, 2905.02, 2907.21, 2907.22, 2907.323, 2909.03, 2909.05, 2909.11, 2911.12, 2913.01, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42, 2913.421, 2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2913.61, 2915.05, 2917.21, 2917.31, 2917.32, 2919.21, 2919.22, 2921.13, 2921.34, 2921.41, 2923.01, 2923.31, 2923.32, 2925.01, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.11, 2925.36, 2929.01, 2929.11, 2929.13, 2929.14, 2929.15, 2929.19, 2929.191, 2929.20, 2929.26, 2929.34, 2929.41, 2930.12, 2930.16, 2930.17, 2935.041, 2937.36, 2941.141, 2941.142, 2941.143, 2941.144, 2941.145, 2941.146, 2941.1411, 2941.1412, 2941.1414, 2941.1415, 2941.1421, 2941.1422, 2941.1423, 2950.99, 2951.041, 2951.08, 2953.08, 2967.14, 2967.193, 2967.28, 2971.03, 2981.07, 3719.99, 4507.51, 4511.091, 4729.99, 5120.031, 5120.07, 5120.111, 5120.16, 5120.331, 5120.48, 5120.59, 5120.60, 5120.66, 5139.01, 5139.06, 5139.18, 5139.20, 5139.43, 5139.52, 5149.01, 5149.10, 5149.31, 5149.32, 5149.33, 5149.34, and 5149.36

enacting enact sections 307.932, 2152.121, 2152.51, 2152.52, 2152.53, 2152.54, 2152.55, 2152.56, 2152.57, 2152.58, 2152.59, 2301.271, 2743.601, 2929.143, 2950.17, 2951.022, 2961.21, 2961.22, 2961.23, 2961.24, 2967.19, 5120.036, 5120.113, 5120.114, 5120.115, and 5149.311 of the Revised Code

and to amend Section 3 of Am. Sub. H.B. 130 of the 127th General Assembly, to increase from \$500 to \$1,000 the threshold amount for determining increased penalties for theft-related offenses and for certain elements of "vandalism" and "engaging in a pattern of corrupt activity"; to increase by 50% the other threshold amounts for determining increased penalties for those offenses; to revise and clarify the law regarding prosecution of multiple theft, Medicaid fraud, workers' compensation fraud, and similar offenses and the valuation of property or services involved; to include workers' compensation fraud as a theft offense; to provide that if "nonsupport of dependents" is based on an abandonment of or failure to support a child or a person to whom a court order requires support and is a felony the sentencing court generally must first consider placing the offender on one or more community control sanctions; to eliminate the difference in criminal penalties for crack cocaine and powder cocaine; to revise some of the penalties for trafficking in marijuana or hashish, for possession of marijuana, cocaine, or hashish, and for all third degree felony drug offenses that currently have mandatory prison terms; to prohibit a convicted sex offender from possessing a photograph of the offender's victim while the offender is serving a term of confinement for that offense and to prohibit a child-victim offender from possessing a photograph of any minor child while the child-victim offender is serving a term of confinement for that offense; to revise procedures for notification of victims when violent offenders escape from the Department of Rehabilitation and Correction; to modify the number of Parole Board members required to conduct a full Board hearing; to limit a member of the Parole Board appointed after the bill's

effective date who is not the Chairperson or a victim representative to two six-year terms; to revise the eligibility criteria for, and procedures governing, intervention in lieu of conviction; to revise the eligibility criteria for judicial release; to reduce the penalty for the offense of "escape" when it involves certain conduct by a person under supervised release by the Department; to revise the procedure for prisoners in state correctional institutions to earn days of credit for productive participation in specified prison programs and the number of days of credit that may be earned; to require judges who sentence an offender to a prison term to include in the sentence notice to the offender that the offender may be eligible to earn such days of credit; to require GPS monitoring of a prisoner placed on post-release control who was released early from prison due to earning 60 or more days of credit; to enact a new mechanism for the possible release with sentencing court approval of certain Department inmates who have served at least 80% of their prison term; to expand the membership of a county's local corrections planning board; to expand the authorization to transfer certain Ohio prisoners for pretrial confinement to a contiguous county in an adjoining state to also apply to post-conviction confinement and confinement upon civil process; to make changes regarding halfway houses and community residential centers and authorize reentry centers; to provide for the establishment and operation of community alternative sentencing centers for misdemeanants sentenced directly to the centers under a community residential sanction or an OVI term of confinement not exceeding 60 days; to change the membership of the Ex-offender Reentry Coalition by reducing the number and functions of members from the Governor's office and adding the Director of Veterans Services; to remove judges from the membership of a corrections commission and instead have them form an advisory board; to require the Department to develop a reentry plan for each inmate committed to the Department who was not sentenced to a term of life without parole or a sentence of death and who is expected to be imprisoned for more than 30 days; to revise the procedures governing the Department's issuance of an inmate identification card upon an inmate's release and the use of such a card to obtain a state identification card; to authorize, instead of requiring, the Department to discontinue subsidy payment to a political subdivision that reduces local funding for corrections by the amount of a community-based corrections subsidy or that uses a subsidy for capital improvements; to adopt a single validated risk assessment tool to be used by courts at their option and by probation departments and the Department of Rehabilitation and Correction to evaluate risk levels of offenders; to provide judges the option of risk reduction sentencing to allow for early release of certain prisoners who complete treatment and programming while incarcerated; to generally require offenders convicted of or pleading guilty to a felony of the fourth or fifth degree that is not a specified offense to serve community control sanctions when the conviction or plea did not occur in specified circumstances; to create the offense of trespass in a habitation of a person when any person other than an accomplice of the offender is present or likely to be present; to change the sentencing structure for felonies of the first degree and for felonies of the third degree that are not specified types of offenses; to require the Department of Rehabilitation and Correction to adopt specified types of standards regarding sentencing to community-based correctional facilities and community corrections programs; to reduce duplication of probation supervision resources; to require the Department of Rehabilitation and Correction to establish and administer the probation improvement grant and the probation incentive grant; to encourage a county and the Juvenile Court that serves the county to use the moneys in the county treasury's Felony Delinquent Care and Custody Fund to research-supported, outcome-based programs and services; to expand the circumstances in which a delinquent child committed to the Department of Youth Services may be granted a judicial release; to establish procedures for determining the competency to participate in the proceeding of a child who is the subject of a complaint alleging that the child is a delinquent child and procedures for a child to attain competency if the child is found to be incompetent; to establish an interagency task force to investigate and make recommendations on how to most effectively treat delinquent youth who suffer from serious mental illness or emotional and behavioral disorders; to establish a new mechanism, which may involve transfer back to a juvenile court, for determining the sanction for certain children who are convicted of a crime in criminal court after their case is transferred under a specified mandatory transfer provision; to revise the provision regarding commitment of a delinquent child to the Department of Youth Services for being complicit in the commission of an act by another that constitutes a firearm specification; to modify the required content of complaints alleging chronic or habitual truancy; to revise the time for notification of bail forfeiture proceedings regarding recognizance's; to require the Department of Rehabilitation and Correction to conduct a study of assaults by inmates; to modify the Ohio Criminal Sentencing Law based on the Ohio Supreme Court's decisions in *State v. Foster* and *State v. Hodge*; to prohibit the arrest, charging, or conviction of a person for speeding based on a peace officer's unaided visual estimation of the speed of the vehicle; to require the Department of Rehabilitation and Correction to thoroughly review the cases of all parole-eligible inmates who are sixty-five years of age or older; to authorize libraries, museums, archival institutions, and merchants to detain a suspected shoplifter, etc., to offer pretrial diversion and inform the suspect of other available options; to provide for certificates of achievement and employability for certain Department of Rehabilitation and Correction prisoners to be used by the recipient prisoner to generally obtain relief from mandatory civil impacts that would affect a potential job for which the prisoner trained; to prohibit a court from ordering a statutory change of name for a person convicted of identity fraud or having a duty to register under the SORN Law; and to revise certain provisions of the Crime Victims Reparations Law.

Highlights of Bill's History

Feb.3, 2011	Introduced
Feb.23	SUBSTITUTE BILL ACCEPTED making HB 86 and SB 10 identical, House Criminal Justice, (First Hearing)
May 3	REPORTED OUT AS AMENDED, House Criminal Justice, (Fifth Hearing)
May 4	PASSED BY HOUSE; Vote 96-2; amended
June 15	SUBSTITUTE BILL ACCEPTED, Senate Judiciary - Criminal Justice, (Fifth Hearing)
June 21	SUBSTITUTE BILL ACCEPTED & REPORTED OUT AS AMENDED, Senate Judiciary - Criminal Justice, (Sixth Hearing)
June 22	SB 44 (Prohibiting convicted sex offender from possessing photograph of victim) included in HB 86 PASSED BY SENATE; Vote 30-3
June 23	SB 76 (Prohibiting statutory name change of person having committed identity fraud or required to register under SORN Laws) included in HB86 Consideration of Senate Amendments; Concurred 87-9
June 24	Sent to Governor for Signature
June 29	SIGNED BY GOVERNOR, Eff. 90 days (Sept. 27, 2011)

Referenced Reports, Bills, and Studies

HB 130 127th General Assembly ([Bill](#))([Analysis](#)) [Referencing *State ex rel. Bray v. Russell (2000)*, [Here](#), [Here](#), and [Here](#)]

[State v. Foster](#), 2006-Ohio-856

[State v. Hodge](#), 2010-Ohio-6320

[Executive Committee of Ohio Judicial Conference's Response to CCAO Legislative Program](#) (Feb. 25, 2011)

[Ohio Criminal Sentencing Commission's "Prison Crowding: The Long View \(2011 Monitoring Report\)](#) March 2011

[Ohio Judicial Impact Statement on House Bill 86/Sentencing Reform](#) (June 14, 2011)

Ohio Dept. Rehabilitation & Corrections *Suggested Amendments to Sen. Sub. HB 86* (June 21, 2011)

[Ohio Legislative Service's Synopsis of Senate Committee Amendments](#) (June 22, 2011)

Blogs & News Articles (Last viewed June 8, 2011)

A number of recent articles & news reports have mentioned studies done by the *Council of State Governments* for the State of Ohio. There appear to have been three such studies over the past year now. Each is available on *The Council of State Government's Justice Center's website*, with the most recent one being done last February and available [here](#).

“Ohio needs to consider sentencing reforms” (editorial in *Marietta Times*, Jan. 26, 2011) @ <http://www.mariettatimes.com/page/content.detail/id/533139/Ohio-needs-to-consider-sentencing-reforms.html?nav=5004>

“Judicial Leaders Participate in Prison Policy Roll-Out,” Supreme Court & Judicial System News, Feb. 2, 2011 @ http://www.supremecourt.ohio.gov/PIO/news/2011/justicereinvestment_020211.asp

“Sentencing reform part of Kasich’s goals” – Dayton Daily News (March 13) @ <http://www.daytondailynews.com/news/ohio-news/sentencing-reform-part-of-kasichs-goals-1106170.html>

“Criminal sentencing reform has been studied long enough” – (editorial in *Akron Beacon Journal*, April 8) @ <http://www.ohio.com/editorial/opinions/119459649.html>

“Study singles out Ohio’s prison system steep decline in recidivism” – (Dayton Daily News, April 14) @ [http://www.daytondailynews.com/news/ohio-news/ohios-decline-in-prison-recidivism-among-steepest-in-u-s-study-says-1135578.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+StatelineorgRss-Ohio+\(Stateline.org+RSS++Ohio\)](http://www.daytondailynews.com/news/ohio-news/ohios-decline-in-prison-recidivism-among-steepest-in-u-s-study-says-1135578.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+StatelineorgRss-Ohio+(Stateline.org+RSS++Ohio))

“Ohio’s new prisons chief pushes reform,” – (Columbus Dispatch, April 20) @ http://www.dispatchpolitics.com/live/content/local_news/stories/2011/04/20/copy/ohios-new-prisons-chief-pushes-reforms.html?adsec=politics&sid=101

“Now the Ohio Senate must finish the job of criminal sentence reform,” – (editorial in *Akron Beacon Journal*, May 8, 2011) @ <http://www.ohio.com/editorial/opinions/121458104.html>

“Juvenile-justice laws may need review, but not rushed legislation” – (editorial in *Columbus Dispatch*, May 23) @ <http://www.dispatch.com/live/content/editorials/stories/2011/05/23/think-it-over.html?sid=101>

“Diversion is cheaper than prison, but it isn’t free,” – (editorial in *Cleveland Plain Dealer*, May 30, 2011) @ http://www.cleveland.com/opinion/index.ssf/2011/05/diversion_is_cheaper_than_pris.html

“Senate prepares to vote on 'get-out-of-prison-sooner' bill” (*Columbus Dispatch*, June 22, 2011) @ http://www.dispatch.com/live/content/local_news/stories/2011/06/22/get-out-of-prison-sooner-bill.html?sid=101

“Prison sentence reductions may save \$1B “ (*Dayton Daily News*, June 23) @ <http://www.daytondailynews.com/news/ohio-news/prison-sentence-reductions-may-save-1prison-sentence-reductions-may-save-1b-1191462.html>

“Editorial: Ohio should be both tough and smart on crime” (editorial on *Cincinnati.com*, June 24,2011) @ [http://news.cincinnati.com/article/20110626/EDIT01/106260309/Editorial-Ohio-should-both-tough-smart-crime?odyssey=mod|news|well|text|FRONTPAGE|p \)](http://news.cincinnati.com/article/20110626/EDIT01/106260309/Editorial-Ohio-should-both-tough-smart-crime?odyssey=mod|news|well|text|FRONTPAGE|p))

“Prosecutor criticizes sentencing changes” – (*Portsmouth Daily Times*, June 25) @ http://www.portsmouth-dailytimes.com/view/full_story/14471801/article-Prosecutor-criticizes-sentencing-changes?instance=secondary_stories_left_column

“Criminal records keeping millions of Ohioans jobless” – (*Dayton Daily News*, June 25) @ <http://www.daytondailynews.com/news/crime/criminal-records-keeping-millions-of-ohioans-jobless-1193628.html?viewAsSinglePage=true>

“Sentencing-overhaul law to reduce Ohio’s prison population” – (*Columbus Dispatch*, June 30, 2011) @ http://www.dispatch.com/live/content/local_news/stories/2011/06/30/sentencing-overhaul-to-reduce-prison-population.html?sid=101

“Sentencing reform 'double whammy' for county” (*Cincinnati.com*. on June 29, 2011) @ [http://news.cincinnati.com/article/20110629/NEWS010702/106300328/ \)](http://news.cincinnati.com/article/20110629/NEWS010702/106300328/)