



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

S.B. 74

128th General Assembly
(As Introduced)

Sens. Turner, D. Miller, R. Miller, Sawyer, Morano

BILL SUMMARY

- Requires the State Criminal Sentencing Commission to study sentencing for drug-related offenses and to report its findings, and recommendations for reducing the number of offenders incarcerated for drug-related offenses, to the General Assembly.

CONTENT AND OPERATION

Existing law

Existing law creates within the Ohio Supreme Court the State Criminal Sentencing Commission, consisting of 31 members who represent specified professions, occupations, or interest groups that have some type of experience in or contact with the state's criminal justice system or court system. The Commission has appointed a Project Director and other staff to perform its duties (R.C. 181.21, not in the bill; see **COMMENT** for a description of the membership of the Commission and its general operational procedures).

Existing law assigns a number of duties to the Commission, including studying and recommending to the General Assembly changes in the criminal statutes and law of the State, changes in all forfeiture statutes in R.C. Titles XXIX and XLV, and changes in all statutes governing delinquent child, unruly child, and juvenile traffic offender dispositions in the State (R.C. 181.23, 181.24, and 181.25). The Commission has complied with these mandates, and, based on its recommendations, the General Assembly has enacted major Felony Sentencing Law revisions that took effect in 1996, Juvenile Justice Law revisions that took effect in 2002, Misdemeanor Sentencing Law revisions that took effect in 2004, Traffic Law revisions that took effect in 2004, and Forfeiture Law revisions that took effect in 2007.

Operation of the bill

The bill expands the duties of the State Criminal Sentencing Commission to also require it to conduct a study of sentencing for drug-related offenses in the State, including offenses contained in R.C. Chapters 2925. and 3719. and R.C. 4511.19. In conducting the study, the Commission must do all of the following: (1) gather information on the number of individuals incarcerated for drug-related offenses in all "local detention facilities" (see below) and state correctional facilities, the percentage of the total incarcerated population that those individuals constitute, and the terms of imprisonment to which offenders are sentenced for drug-related offenses, (2) determine whether and to what extent racial disparities and disparities among socioeconomic classes exist in sentencing for drug-related offenses and in incarceration for violations of the conditions of sentences or post-release control sanctions for drug-related offenses, and (3) study ways to reduce the number of individuals incarcerated in local detention facilities and state correctional facilities for drug-related offenses.

The bill requires the Commission to report its findings, together with recommendations for reducing the number of individuals incarcerated in local detention facilities and state correctional facilities for drug-related offenses, to the Speaker and the Minority Leader of the House of Representatives and to the President and the Minority Leader of the Senate within six months after the bill's effective date.

As used in these provisions, by reference to existing R.C. 2929.36 (not in the bill), "local detention facility" means a multicounty correctional center, municipal-county correctional center, multicounty-municipal correctional center, community-based correctional facility, district community-based correctional facility, jail, county jail, municipal or county prison, station house, workhouse, city workhouse, county workhouse, joint city and county workhouse, and district workhouse. (R.C. 181.27.)

COMMENT

Existing R.C. 181.21, which is not in the bill, prescribes the membership of the State Criminal Sentencing Commission and the Commission's general operational procedures. One member is the Chief Justice of the Supreme Court, who is the Commissions' Chairperson. The following ten members, no more than six of whom may be members of the same political party, are appointed by the Chief Justice: one judge of a court of appeals, three judges of courts of common pleas who are not juvenile court judges, three judges of juvenile courts, and three judges of municipal courts or county courts. Four members are the Superintendent of the State Highway Patrol, the State Public Defender, the Director of Youth Services, and the Director of Rehabilitation and Correction, or their individual designees. The following 12 members, no more than seven of whom may be members of the same political party, are appointed by the

Governor after consulting with the appropriate state associations, if any, that are represented by these members: one sheriff; two county prosecuting attorneys, at least one of whom is experienced in the prosecution of delinquency, unruliness, and juvenile traffic offender cases in juvenile court; two peace officers of a municipal corporation or township, at least one of whom is experienced in the investigation of cases involving juveniles; one former victim of a violation of R.C. Title XXIX; one attorney whose practice of law primarily involves the representation of criminal defendants; one member of the Ohio State Bar Association; one attorney whose practice of law primarily involves the representation in juvenile court of alleged delinquent children, unruly children, and juvenile traffic offenders; one full-time city prosecuting attorney; one county commissioner; and one mayor, city manager, or member of a legislative authority of a municipal corporation. Two members are members of the Senate, one appointed by the Senate President and one appointed by the Senate Minority Leader. Two members are members of the House of Representatives, one appointed by the House Speaker and one appointed by the House Minority Leader. When the Chief Justice and Governor make their appointments to the Commission, they are required to consider adequate representation by race and gender.

The Commission is required to select a vice-chairperson and any other necessary officers and adopt rules to govern its proceedings. It meets as necessary at the call of the chairperson or on the written request of eight or more of its members, 16 members constitute a quorum, and the votes of a majority of the quorum present are required to validate any Commission action. All business must be conducted in public meetings. Commission members serve without compensation, but each member is reimbursed for actual and necessary expenses incurred in the performance of the member's official Commission duties.

The Commission is required to have an office and to appoint and fix the compensation of a project director and any other employees necessary to assist it in the execution of its authority. The project director must have a thorough understanding of Ohio's criminal laws and experience in committee-oriented research. The other employees may include a research coordinator with experience and training in policy-oriented research; professional staff employees with backgrounds in criminal law, criminal justice, political science, or related fields of expertise; administrative assistants; and secretaries. The Commission also may appoint and fix the compensation of part-time data collectors, clerical employees, and other temporary employees as needed to enable the Commission to execute its authority.

HISTORY

ACTION

DATE

Introduced

03-10-09

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