



### Recodification Proposal Side by Side Comparison

In line with the discussions up to now, below are some of the current priorities centering around indeterminate sentencing, hard to place populations and drug offenses. The chart is meant to solicit feedback from OCCA as the Ohio Criminal Sentencing Commission works to pass components of the Recodification package.

#### Drug Offenses

Senate Bill 66 – Eklund (R)	Senate Bill 201 – Bacon / O’Brien (R), House Bill 365 – Hughes (R), Boggs (D)	Recodification Proposal (chaired by Judge Pepple)	Senate Bill 202 – Bacon & O’Brien (R)
<p>Makes changes to <b>Intervention in Lieu of Conviction (ILC)</b> allowing relapse to be treated at Judges’ discretion as opposed to automatic incarceration RC 2951.041</p> <p>Modifies eligibility criteria to exclude: prior convictions <i>[may want to make sure that felony is specified]</i> for “offenses of violence,” current presenting F3 – F1 charge of “offenses of violence,” “aggravated vehicular assault” nor “aggravated vehicular homicide” OVI nor mandatory prison term(s); “corrupting another with drugs,” “illegal manufacturing of drugs” nor “illegal cultivation” nor “administration / distribution of anabolic steroids,” F4-F1 traffickers nor F2-F1 possession; “tampering with drugs” that resulted in physical harm</p> <p>Alters verbiage from persons eligibility determination to persons <b>program</b> eligibility determination</p>	<p>No provision</p>	<p>Intervention in Lieu proposed changes are discretionary by the court. Once referred or have failed drug tests after enrollment in intensive supervision triggers community treatment provider examination. If successful, criminal charges dismissed. If relapse, court retains discretion to continue treatment, sentence or punishment “...with up to 30 days in jail and continue them on treatment.”</p>	<p>No provision</p>
<p>No Provision</p>	<p>For F1 and 2 drug abuse offenses that call for a mandatory term of imprisonment, these bills specify that the mandatory will equate to the longest minimum term available in the new</p>	<p>Makes significant changes to RC chapter 2925 that are not addressed in any introduced legislation. Clearly delineates sellers and those “harming others...from the least culpable (those caught in a cycle of addiction).”</p> <p>“<b>Fentanyl</b> has been addressed by broadening definition of heroin to include any mixture of the substances; the entire weight of any compound, mixture, preparation, or substance containing any amount of the drug is weighted for the purposes of this chapter. In addition, collateral sxns. With</p>	<p>No provision</p>

	indeterminate offense ranges RC 2925.01 (LL) to (OO)	no real deterrent effect, such as mandatory driver’s license suspensions & mandatory fines were eliminated as counterproductive and unduly harsh.” Intensive supervision “...was designed to be pathway for treatment options for those caught in the cycle of addiction...If the person has previously been found guilty of a <b>serious offense of violence</b> * <sup>1</sup> or a sexually oriented offense, the person is ineligible.” Consent based. RC 2951.11 Lowers penalties for Illegal assembly or Possession of Chemicals for Drug Manufacture from F3 to F5. RC 2925.061 Targets more serious manufacturers through RC 2925.06	
No Provision	For those convicted of felony drug trafficking it bars extradition RC 2925.02(C), 2925.03(C), 2925.04(C), 2925.041(C), 2925.05(C) & 2925.11(C)	“...possessing a large amount of drugs creates an irrebutable presumption of trafficking...and is sufficient to charge a person with Aggravated Trafficking or Trafficking... <b>as a predicate felony for felony murder.</b> ” “ <b>Petty trafficking</b> , Possession of Drugs, & possession of Marijuana are offenses that are eligible for treatment options.” & puts the burden on the prosecution to prove sale / trafficking. RC 2925.03 “ <b>Trafficking in Drugs</b> ...deals with F3 drug amounts and contains no presumption of prison (nor) mandatory minimums.”	No provision

<sup>1</sup> **Serious Offenses of Violence** are murder, voluntary & involuntary manslaughter, permitting child abuse, kidnapping, abduction, trafficking in persons, sex offenses, rape, sexual battery, Gross Sexual Imposition, Aggravated Arson, Arson, Terrorism, Inciting to Violence, Aggravated Riot, (formerly) Felonious Assault, Child Endangerment, Aggravated Robbery, Robbery and Domestic Violence

**Sentencing**

Senate Bill 66 – Eklund (R)	Senate Bill 201 – Bacon / O’Brien (R), House Bill 365 – Hughes (R), Boggs (D)	Recodification Proposal (chaired by Judge Pepple)	Senate Bill 202 – Bacon & O’Brien (R)
Adds rehabilitation to the purposes of sentencing	No provision	3 goals: 1.) “Prioritize prison for dangerous & violent, 2.) incentivize offenders to target & change their behavior & prepare them for reintegration...3.) empower judges to exercise their discretion to fairly & proportionately sentence offenders.”	No provision
Presumption for community control for F4/F5s and no mandatory minimum terms only if there are no “offenses of violence” nor “qualifying assault offense.” AND if there are no prior felony convictions, the presenting offense is an F4/F5, no prior misdemeanor offenses of violence in the last 24 months and DRC is required to offer community control options within 45 days.		<p>“...those that behave well in prison &amp; actively seek out programming have the potential for presumptive release at the min. sentence, limited earned credit and unsupervised release.”</p> <p>Changes appeal process and emphasizes the importance of Pre Sentence Investigations RC 2929.61 and 2951.03 respectively Indefinite sentencing applies to ALL felonies.</p>	
Violations of community control sanctions yield CBCF or jail terms			
Earned Credit made available RC 2929.19 (B)(2)(g)(i) & (v)	Institutes Indefinite Sentencing Scheme for F3 – F1s that is NOT retroactive - provides for mandatory minimums, earned credit and the ability for sentencing judge to choose concurrent or consecutive sentences with maximum sentence held in abeyance based on behavior in institution, DRC determination of continued “threat to society,” classification at time of hearing is security level 3-5 or higher. Journal entries by sentencing court required. Concurrent/Consecutive specifications defined by RC	“...if a person is sentenced to a prison term that equals or exceeds the jail term on a misdemeanor, the misdemeanor must run concurrently to the prison term...consecutive jail sentences cannot exceed 18 months.” Institutes mandatory minimum ranges. “...institutional rule breaking, violence & lack of progress are grounds to hold an offender beyond the minimum, & to impose stringent supervision” upon release. Provides for the ability for sentencing judge to choose concurrent or consecutive sentences. “Then the court will determine the sentences for the specifications, if any, & decide if the sentences	

		for the specifications should run concurrently or consecutively.	
<p>PRC Violation is a prison term sanction that is limited to 90 days down from current 9 months RC 2967.28 (F)(3)</p>	<p>PRC violations remain at 9 months. Adds that a guilty plea "...new prison term is subject to a max. cumulative prison term for all violations that does not exceed one half of the definite term that is the stated prison term originally imposed upon the offender (as under existing law) or, with respect to an indefinite prison term imposed under the bill one half of the min. term included as part of the indefinite prison term originally imposed under the bill on the offender."</p>		

**Sex Offenses**

<b>Senate Bill 66 – Eklund (R)</b>	<b>Senate Bill 201 – Bacon / O’Brien (R), House Bill 365 – Hughes (R), Boggs (D)</b>	<b>Recodification Proposal (chaired by Judge Pepple)</b>	<b>Senate Bill 202 – Bacon &amp; O’Brien (R)</b>
No Provision	GPS Monitoring in HB 365 only mirrors SB 202	No Provision	GPS Monitoring of all target offenders (may include sex offenders)
No Provision	Database for law enforcement of all target offenders in HB 365 only mirrors SB 202	No Provision	Database for law enforcement of all target offenders (may include sex offenders)
No Provision	New DRC standards for APA case and workloads in line with criteria as outlined by the APPA in HB 365 only mirrors SB 202	No Provision	New DRC standards for APA case and workloads in line with criteria as outlined by the APPA
No Provision	Requires a residential facility for target offenders in HB 365 only, mirrors SB 202	No Provision	Requires a residential facility for target offenders (may include sex offenders)
No Provision	Sexually Oriented Offenses are not eligible for earned credit. HB 365 only: “The bill clarifies that the law’s PRC provisions do not apply with respect to a term of life imprisonment imposed by a court...the Ohio Supreme Court held that the plain language of the current PRC provisions requires the imposition of PRC for all F1s and all felony sex offenses, including rape in circumstances in which a term of life imprisonment is imposed. The bill removes from the PRC law the language that was the basis of the decision.”	No Provision	No provision
No Provision	No Provision	Added knowledge of minor victims age except in cases of “aggravated rape of a young child.” RC 2907.01	No Provision
No Provision	No Provision	Removed felony enhancements for public indecency RC 2907.09	No Provision
No Provision	No Provision	Made changes to dangerous sexual activity charges around transmission of HIV RC 2907.10	No Provision
No Provision	HB 365 Requires inclusionary and exclusionary zones for all target offenders	No Provision	Mirrors HB 365 Requirements on inclusionary and exclusionary zones for all target offenders
No Provision	No Provision	“...judges were empowered to a limited degree to alter classifications or allow deregistration after a period of time to those who conclusively demonstrated they were no longer a risk to reoffend...prioritize registration for those who	No Provision

		remain a danger to the community and not to dilute the registry with offenders who no longer remain a danger to reoffend.” Makes changes to registration technology RC 2950	
No Provision	No Provision	Removes residency restrictions RC 2950	No Provision
No Provision	No Provision	“Sexually Violent Predators - The offender is released under this chapter by the parole board, but the sentencing court retains additional punishments to impose if an offender commits a new crime for the rest of the person’s life.” RC 2971	No Provision
No Provision	No Provision	“Revocation of Release – person ... subject to return to prison if the person commits a new sexually-oriented or violent offense. If the person commits a sexually oriented offense, the sentencing court on the new offense shall reimpose the life sentence in addition to the sentence for the new offense...If the new crime the offender committed was a sexually violent offense, the offender is never again eligible for parole and will not be released...” RC 2971.05	No Provision

**MISCELLANEOUS ITEMS OF INTEREST:**

“**Section 2929.21 Criminal Nonsupport**...The sentencing court is encouraged, but not mandated, to consider probation with emphasis on employment for a person found guilty of a violation of this section.”

“**Section 2921.34 Escape**. While this section was largely unchanged, it was limited in one regard; breaking supervised release was removed as a form of escape.”