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Sentencing and Criminal Justice Committee

February 21, 2019

Agenda

- I. **Call to Order & Approval of Meeting Notes of November 2018 meeting**

- II. **Old Business**
 - A. **Appellate Review Draft**
The committee will discuss and vote on the proposed redraft of §2953.08
 - B. **Drug Chapter Workgroup update**
A discussion of the work being done by the Drug Chapter Workgroup
 - C. **Bail Reform update**
Mr. Shumaker will update the committee on developments in pretrial justice

- III. **New Business**
 - A. **Senate Bill 201 Implementation**
Mr. Shumaker will review Reagan Tokes Law implementation materials
 - B. **Legislative Update**
Discussion of new legislation and General Assembly committees
 - C. **Roster Update**
Review of current roster

Upcoming Meetings

Ohio Criminal Sentencing Commission

March 21, 2019
Verne Riffe Center,
South B&C

Sentencing and Criminal Justice Committee

April 18, 2019
Ohio Judicial Center, Room 281

Sentencing and Criminal Justice Meeting November 15, 2018

Call to order and approval of August 16, 2018 minutes:

Judge Spanagel called the meeting to order and Scott Shumaker noted the members in attendance, including two members who called in via conference line due to inclement weather. Lusanne Green noted that the minutes indicated there might need to be a legislative change to allow misdemeanants to be sent to a CBCF facility. She corrected that statutory authority exists. The corrected minutes were then approved.

New Business:

Members then briefly discussed the election results with regards to State Issue 1. Judge Selvaggio mentioned that members and their respective constituencies should be cautious in attempting to attribute the defeat to any one specific cause or in using the margin of defeat as a springboard for policy proposals.

Discussion then began of a draft legislative proposal from Franklin County Prosecutor Ron O'Brien and Franklin County City Attorney Zack Klein. Scott Shumaker gave background on how the proposal was developed in the run-up to the election as an "issue 1 alternative" and reported to the committee on recent traction the proposal had gained with Senate President Obhof. Lara Baker-Morrish then detailed the various provisions of the proposal, including what it touched on and what it didn't. The proposal reduces felony 4 and 5 possession offenses to misdemeanors, removes some mandatory prison sentences for high level possession offenses, and provides provisions for reclassification of prior convictions.

Gwen Howe-Gebers indicated the proposal was being evaluated within OPAA and that they were also discussing a proposal by Athens County Prosecutor Keller Blackburn. The Blackburn proposal creates an unclassified felony drug possession offense subject to automatic sealing upon completion of treatment. Ms. Howe-Gebers noted her opposition, as well as that of her local judges due to problems with access to probation resources in her municipal court. Hearty discussion ensued of potential issues municipal courts would have absorbing an offender population in need of rehabilitation programs, be that through a CBCF or other residential treatment. Jim Lawrence noted this would be a funding issue that would need be addressed through legislation, in the budget or otherwise. Jillian Boone noted that funding exists, a mechanism is needed to funnel that funding from one court to another.

Lara Baker-Morrish noted that the Klein/O'Brien proposal includes a set effective date for the provision of July 1, 2019, and that provision was included in the hopes it would spur the legislature and courts to put the proper mechanisms and funding in place.

Judge Selvaggio suggested, given the seeming urgency with which President Obhof was treating the proposed reforms, that the Committee draft a letter to send to leadership citing all the concerns that would need to be addressed. Discussion then moved to the draft proposal by

Commission staff regarding the entire drug chapter. Scott gave background on that proposal, stating that it was based on the work of the Recodification committee and noting changes Commission staff had made based upon discussions of the committee and research into directions other states have taken with these types of reform. The staff proposal includes possession as an unclassified misdemeanor subject to up to a year in jail and makes changes to low level possession statutes that provide for conviction for “possession with intent” as exists in nearly all states. Tim Young opined that, in addition to the letter suggested by Judge Selvaggio, the Committee should send the Commission proposal and note that it was subject to the approval of the full Commission in December. Jim Lawrence cited his opposition to making the possession offenses punishable by up to a year and felt 180 days would be an appropriate time. Jillian Boone noted that a 12 month punishment was likely to be more palatable to judges, and Judge Selvaggio felt the year potential punishment gives judges more ability to use residential treatment to help address the addiction issues.

Tim Young moved that the Committee send the proposal to the legislature and Paula Brown seconded. Judge Selvaggio noted it would need to happen with the strong caveat that it was subject to Commission approval in December. The motion passed with Gwen Howe-Gebers as the lone no vote.

Old Business:

Scott Shumaker informed committee members regarding the draft of the Marsy’s law legislation. Lara Baker-Morrish gave background information on the process involved in making the draft. She felt that this would probably be a bill for consideration in the next General Assembly.

Scott Shumaker discussed work on the Appellate Review draft and noted that Judge Sean Gallagher had suggested an in person meeting of the workgroup with a few additional members were the draft could be hammered into final form. That meeting will be scheduled, hopefully in the near future. Scott also mentioned that the other bills based on the Recodification effort were being drafted by LSC for consideration of the next General Assembly, and noted that other than the potential drug reform effort, the expectation was the remainder of the lame duck session would be relatively quiet on the criminal justice front. Commission staff will continue to track the Tokes bills as they progress in each chamber.

Judge Spanagel noted that other priorities could include moving the OVI redraft forward in the next GA, as well as record sealing provisions tied to OVI cases that went through ILC. He also expressed a desire to see the bail reform proposals picked up.

Sara Andrews briefly updated the Committee on the Justice Reinvestment Initiative and will send out the materials from the most recent meeting of the JRI group.

The Committee also agreed to move the next meeting from January 17th to January 24th, 2019.

Adjourn:

With no further business before the Committee, a motion to adjourn was made and passed.

**Ohio Justice Reinvestment 2.0
Final Recommendations**

A. Provide effective treatment for people who have substance addictions and mental illnesses.

A1: Identify high impact Medicaid recipients for whom current approaches aren't working.

A2: Require Managed Care Organizations to target these individuals with comprehensive, proactive supports and services using a collaborative, multi-agency, approach.

A3: Incentivize Managed Care Organizations to improve healthcare and criminal justice outcomes for these individuals

B. Reduce violent crime through proven, proactive law enforcement interventions.

B1: Designate single statewide entity and advisory committee for violence reduction.

- a. Engage in strategic planning including coordination of state and federal funding sources.
- b. Ensure dissemination and use of data analyses, research, training opportunities, and evidence-based policing strategies.
- c. Facilitate connection to technical assistance providers and peers for collaboration.

B2: Create violent crime reduction grant program.

- a. Award grants to local law enforcement department to support crime reduction efforts.

C. Reduce recidivism and costs to taxpayers from an overcrowded prison system.

C1: Use Recovery Sentencing to direct appropriate people to treatment.

- a. Apply a presumption of treatment under community control for people with mental illnesses or substance addictions.
- b. Use current definitions for mental illness and substance addiction.
- c. Connect this approach to the Medicaid Managed Care program envisioned in Part B.

C2: Modernize and streamline sentencing laws.

- a. Require violation sanctions to be based on the violation and define technical violations.
- b. Remove requirement for judges to announce the possible sentence in advance.
- c. Apply "place of confinement" law uniformly statewide.
- d. Refine probation maximum terms and set probation conditions according to risk and needs.
- e. Rescale drug offenses along the lines recommended by recodification.

C3: Utilize judicial release to effectively choose when prison terms can end.

- a. Explore simplifying timing and requiring at least one hearing.
- b. Examine developing enhanced opportunities for legal representation for people in prison.
- c. Repeal 80-percent release and risk-reduction sentencing.
- d. Consider repealing judicial veto of transitional control on short sentences.

C4: Lower barriers to civil commitment for treatment.

D. Improve data collection, sharing, and coordination to inform policy development.

D1: Require sentencing commission to establish a process to document the flow of criminal justice cases and identify the sources and types of data for the purpose of developing a statewide plan to improve data collection, sharing, and coordination.

D2: Require sentencing commission to maintain a centralized database of sentencing and probation data and be responsible for collecting this data and require probation departments to submit data to the sentencing commission.

D3: Encourage the Supreme Court to adopt a uniform format for sentencing journal entries.

D4: Encourage the state to generate summary reports of any required local data as a quality check and to track trends.

D5: Adopt data definitions to standardize information and allow aggregation and research.

Sentencing and Criminal
Justice Committee 2019

Member Name	Position	Email Address	Commission Member	Notes	Voting Member?
Ashley Parriman		Ashley.Parriman@odrc.state.oh.us	N		
Lara Baker-Moorish	City Solicitor General - Muni Pros Association Rep	lnbaker@columbus.gov	Y		
Brian Martin	DRC - Advisory Comm Member	brian.martin@odrc.state.us	Y		
Chrystal Pounds-Alexander	DRC - Victim's representative	chrystal.pounds-alex@odrc.state.us	Y		
Cynthia Mausser	DRC - Advisory Comm Member	cynthia.mausser@odrc.state.us	N		
Gwen Howe-Gebbers	Henry Co. Prosecutor	gwen.howe-gebbers@henrycountyohio.com	Y		
Jill Beeler-Andrews	OPD - Advisory Comm Member	jill.beeler@opd.ohio.gov	Y		
Gene Zmuda	Judge - Lucas County Ohio	gzmuda@co.lucas.oh.us	Y		
Ken Spanagel	Judge - Parma Municipal Court	jdork1005@yahoo.com	Y	Chair	
Kyle Petty	DRC Legislative Liason	kyle.petty@odrc.state.ohio.us	N		
Jim Lawrence	Oriana House - Advisory Comm Member	jameslawrence@orianahouse.org	Y		
Lusanne Green	OCCA	lgreen@occaonline.org			
Louis Tobin	Executive Director, OPAA	tobin@ohiopa.org	N		
Chip McConville	Knox County Prosecuting Attorney	prosecutor@co.knox.oh.us	Y		
Michele Miller		michele.miller@odrc.state.oh.us	Y		
Marta Mudri	OJC	marta.mudri@sc.ohio.gov	N		
Nick Selvaggio	Judge Champaign County Common Pleas	nselfvaggio@co.champaign.oh.us	Y	Commission Vice-Chair	
Paula Brown	OSBA representative	pbrown@kravitzllc.com	Y		
Paul Dobson	Wood County Prosecuting Attorney	pdobson@co.wood.oh.us	Y		
Tasha Ruth	Supreme Court	tasha.ruth@sc.ohio.gov	N		
Sean Gallagher	Judge Eighth Dist. Ct of Appeals	scg@8thappeals.com	N		
Steve Gray		stephen.gray@odrc.state.oh.us	Y		
Tim Young	Ohio Public Defender	tim.young@opd.ohio.gov	Y		

Member Name	Position	Email Address	Commission Member	Notes	Voting Member?
Thomas Marcelain	Judge Licking County Common Pleas	tmarcelain@lcounty.com	Y		
Joshua Williams	OJC	joshua.williams@sc.ohio.gov	N		
Wendy Williams	Southeast Mental Health	williamsw@southeastinc.com	N		
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Dennis Cauchon	President Harm Reduction Ohio	dennis@harmreductionohio.org	N		
Kathy Hamm	Wood County Public Defender	khamm@co.wood.oh.us	Y		