



THE OHIO PROSECUTOR

April 2019

In This Issue

At the Statehouse

- New Legislation

Membership Services

- Community Outreach
- Advocacy Day

New and Noteworthy

- Welcome New Prosecutors

OPAA Testifies at the Statehouse

Training

Contact Us

www.ohiopa.org



From your President...



Victor V. Vigluicci
Portage County

Fellow Ohio Prosecutors:

When asked by our Executive Committee to take on the position of President of our great Association, I have to admit that I needed some time to consider my response. Having served a term as President back in 2007, I knew the time and effort that would be required. But having then spoken with many of my fellow elected Prosecutors, Assistant Prosecutors, and staff at OPAA, I was encouraged by their offers of assistance and support. It is an honor to once again lead our Association.

It seems that every year poses new challenges to Prosecutors and law enforcement in general. Last year it was State Issue 1, along with legislative proposals to change death penalty defense, and "stand your ground" defenses, among others. While we were able to defeat Issue 1 and hold back other ill-conceived "reforms", many are back this year as new proposals. As examples, Senate Bill 3 contains many of the Issue 1 concepts which we fought so hard against, Senate Bill 54 contains restrictions which will all but end the death penalty in Ohio and Senate Bill 57 decriminalizes Hemp which will hamper marijuana enforcement. The importance of our contacts with local legislators cannot be overstated.

I was recently in Columbus to meet with legislators on some of these new proposals and was amazed at how little perspective they had about the real-world implications of their legislation and the effect it would have on both law enforcement and the constituents who elected them. It is up to us who are in the trenches of law enforcement every day to educate our legislators about the effects and consequences of their proposals. Our Executive Director, Lou Tobin, prepares biweekly Legislative Newsletters and has prepared "position papers" with talking points on new legislation. I encourage you to read these and to make contact with your local legislators to reinforce the OPAA's positions and the reasoning behind those positions. (And by the way, I received many compliments at the State House about the performance of our new Executive Director, and have personally been most impressed by him.)

So let's get to work once again to insure the safety of our citizens by supporting good legislative proposals, unmasking the flaws in bad legislative proposals, and promoting our Association as advocates of common sense in our roles as "Ministers of Justice."

From your Executive Director...



Dear OPAA Members –

The 133rd General Assembly got into full swing starting in mid-February when the first round of bills were introduced. Nearly 350 bills have been introduced since, including several that will be priorities, either good or bad, for the OPAA. Of particular importance are the discussions surrounding criminal justice reform. One of the priority bills for the General Assembly is Senate Bill 3 (Drug Reform). The bill is a legislative response to last fall's State Issue 1 and contains many of the same concepts (e.g. misdemeanor drug possession and limits on prison time for "technical violations" of probation). The bill also goes beyond State Issue 1 with its changes to the threshold amounts for drug trafficking – in a way that very much weakens our drug trafficking laws. The bill is backed by the former proponents of Issue 1 like the ACLU of Ohio and the Alliance for Safety and Justice, and also by conservative organizations like the Buckeye Institute and Americans for Prosperity, the policy arm of the Koch brothers. Discussions are taking place regarding bail reform, parole reform, judicial release, and competency restoration of non-violent misdemeanants – although bills on these topics have yet to emerge. Finally, there has been a lot of buzz about the future of the death penalty in Ohio. In addition to the Governor's decision to delay executions, two bills (House Bill 136 and Senate Bill 54) to exclude those who are diagnosed with "serious mental illness" from the death penalty have been reintroduced. It is as important as ever that you stay in touch with your local legislators about how these issues impact you and your community.

In addition to our work at the Statehouse, we have been hard at work in the area of membership services and outreach. An OPAA app is being developed and is nearing completion. The first version of the app, which we hope to release this spring, will offer many of the features of the OPAA website with some added benefits like push notifications. We offered our second ever webinar in March on the topic of Appellate Advocacy and will offer a third in July on Suppression Issues and the 4th Amendment. Finally, we continue to collaborate with the Supreme Court of Ohio Commission on Professionalism, and the Ohio Association of Criminal Defense Lawyers on luncheons geared to promoting professionalism in the criminal justice system. Montgomery County hosted a lunch on April 16 that was attended by about 30 members of the local bar. A few of our members from Warren County even made the trip.

Lou

At the Statehouse

Below is a current list of priority legislation along with the OPAA's position. For a full list of bills that we are tracking visit www.ohiopa.org. If you have any questions about the work of the legislature or the status of any legislation please let us know!

HB136 PROHIBIT DEATH PENALTY IF MENTALLY ILL AT TIME OF OFFENSE (HILLYER B) Prohibit death penalty if mentally ill at time of offense

Current Status: 4/11/2019 - House Criminal Justice, (First Hearing)

Comments: The bill effectively ends the death penalty in Ohio. Post-conviction relief provision allows everyone currently on death row to file for relief based on the assertion that they had one of the listed mental illnesses at the time of their crime. See also Senate Bill 54.

Position: Oppose

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-136>

HB166 OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

Current Status: 4/25/2019 - Senate Finance, (Second Hearing)

Position: Monitor

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>

HB178 CONCEALED WEAPONS REFORM (HOOD R, BRINKMAN T) To modify the Weapons Law by renaming a concealed handgun license as a concealed weapons license, allowing a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, repealing a notice requirement applicable to licensees stopped for a law enforcement purpose, authorizing expungement of convictions of a violation of that requirement, and allowing a person age 21 or older and not prohibited by federal law from firearm possession to carry a concealed deadly weapon without needing a license subject to the same carrying laws as a licensee.

Current Status: 4/10/2019 - House Federalism, (First Hearing)

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-178>

SB3 EXPRESS INTENT-DRUG SENTENCING REFORM (EKLUND J, O'BRIEN S) To express the intent of the General Assembly to develop and enact legislation to reform Ohio's drug sentencing laws.

Current Status: 3/6/2019 - SUBSTITUTE BILL ACCEPTED, Senate Judiciary, (Second Hearing)

Comments: Concerned with changes to threshold amounts as they relate to drug trafficking, reduction of felony possession offenses to misdemeanors, expanded record sealing, definition of "technical violations," and decriminalization of trace amounts.

Position: Amend

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-3>

SB5 PROMOTING PROSTITUTION PENALTIES (KUNZE S, DOLAN M) To amend the penalties for promoting prostitution.

Current Status: 4/11/2019 - House Criminal Justice, (Second Hearing)

Position: Support

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-5>

SB13 HUMAN TRAFFICKING-JUVENILES (FEDOR T)

To require a juvenile court to hold a delinquency complaint in abeyance in certain cases related to prostitution or human trafficking and to provide that the same elements for the offense of trafficking in persons that apply to a victim under the age of sixteen also apply to a victim who is age sixteen or seventeen.

Current Status: 4/24/2019 - Senate Judiciary, (Fourth Hearing)

Position: Support concept. Opposed to substitute bill adopted 4/24/19

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-13>

SB28 PROTECTION ORDER VIOLATION PENALTIES (HOTTINGER J) To increase the penalty that applies to the offense of violating a protection order under certain circumstances.

Current Status: 3/13/2019 - Senate Judiciary, (Second Hearing)

Position: Support

Priority: High

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-28>

<p>SB43 DOMESTIC VIOLENCE-FIREARMS RESTRICTIONS, STRANGULATION (KUNZE S, ANTONIO N) To address domestic violence by means of firearms restrictions, penalty enhancements, and a prohibition against strangulation, and to make an appropriation. Current Status: 4/2/2019 - Senate Government Oversight and Reform, (First Hearing) Position: Support Priority: High State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-43</p> <p>SB48 SPEEDY TRIAL RULES (EKLUND J) To narrow the scope of speedy trial rules. Current Status: 4/16/2019 - Referred to Committee House Criminal Justice Position: Support Priority: High State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-48</p> <p>SB54 PROHIBIT DEATH PENALTY-MENTAL ILLNESS (EKLUND J, WILLIAMS S) To prohibit imposing the death penalty for aggravated murder when the offender had a serious mental illness at the time of the offense. Current Status: 4/24/2019 - Senate Judiciary, (First Hearing) Comments: The bill effectively ends the death penalty in Ohio. Post-conviction relief provision allows everyone currently on death row to file for relief based on the assertion that they had one of the listed mental illnesses at the time of their crime. See also House Bill 136. Position: Oppose Priority: High State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-54</p> <p>SB55 ENHANCE PENALTIES-DRUG TRAFFICKING (GAVARONE T) To enhance penalties for certain drug trafficking offenses committed in the vicinity of a community addiction services provider and to name the act's provisions the "Relapse Reduction Act." Current Status: 4/3/2019 - REPORTED OUT AS AMENDED, Senate Judiciary, (Third Hearing) Position: Support Priority: High State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-55</p> <p>HB85 CAPITAL CASE COSTS (WILKIN S, ROGERS J) To allow the Controlling Board to transfer money to the Attorney General and State Public Defender to defray county</p>	<p>costs associated with certain capital cases and to declare an emergency. Current Status: 4/24/2019 - Senate Finance, (First Hearing) Position: Support Priority: Medium State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-85</p> <p>HB128 SOLICITING PENALTY (KOEHLER K, MILLER A) To modify the penalties for certain soliciting offenses and to specify that an imposed fine may be deposited into the Victims of Human Trafficking Fund. Current Status: 4/11/2019 - House Criminal Justice, (First Hearing) Comments: Remove requirement that offender offer payment, or offer payment in the vicinity of a school or place of worship. Amend fines to allow for standard F4/F5 fine amount. Position: Amend Priority: Medium State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-128</p> <p>SB57 DECRIMINALIZE HEMP (HILL B, HUFFMAN S) To decriminalize hemp and hemp products and to establish a hemp cultivation licensing program. Current Status: 4/9/2019 - House Agriculture and Rural Development, (First Hearing) Comments: Concerned with impact on probable cause and ability of BCI to test the level of THC. Position: Oppose Priority: High State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-57</p> <p>SB58 NONVIOLENT CRIMINALS WITH MENTAL ILLNESS (GAVARONE T) To express the intent of the General Assembly to reform the process of restoring the competency of individuals with serious mental illness charged with nonviolent crimes and to provide alternatives for treatment. Current Status: 2/26/2019 - Referred to Committee Senate Judiciary Priority: Medium State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-58</p> <p>SB99 ELIMINATE MANDATORY BINDOVERS (THOMAS C) To eliminate mandatory bindovers and reverse bindovers, and modify the law governing a discretionary bindover, of an alleged juvenile offender from a juvenile court</p>
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to a criminal court.

Current Status: 3/12/2019 - Referred to Committee Senate Judiciary

Position: Oppose

Priority: Medium

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-99>

SB100 PAROLE ELIGIBILITY-JUVENILES (THOMAS C)
Relative to parole eligibility for persons with an indefinite or life sentence imposed for an offense committed when the person was less than 18 years of age.

Current Status: 3/27/2019 - Senate Judiciary, (First Hearing)

Position: Oppose

Priority: Medium

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-100>

SB111 SPORTS WAGERING (EKLUND J, O'BRIEN S) To permit the Ohio Casino Control Commission to regulate sports wagering and to levy a tax on businesses that provide sports wagering.

Current Status: 3/14/2019 - Introduced

Position: Monitor

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-111>

HB194 SPORTS GAMBLING (GREENSPAN D, KELLY B)
To create a Sports Gaming Advisory Board, to legalize and regulate sports gaming in this state, and to levy a tax on businesses that provide sports gaming.

Current Status: 4/10/2019 - Referred to Committee House Finance

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-194>

Join us at the Statehouse!

If you are ever in Columbus on a Tuesday or Wednesday, let us show you around the Statehouse, take you to a committee meeting, or introduce you to some of the decision makers on capitol square. There are also "interested party" meetings throughout the year that are worth attending. We'll keep you posted on those that we have an interest in. Come experience the process!!

Membership Services

Community Outreach

Montgomery County File of Life program.

In Montgomery County, Prosecuting Attorney Mat Heck's Elder Protection Unit specializes in prosecuting cases of elder abuse and theft, and in educating seniors in our community about the warning signs and ways to protect themselves. An important goal of this unit is making our elder citizens safer in their homes. As part of that effort, the prosecutor is always looking for practical ways to assist seniors.

In July, 2018, our office started providing the File of Life to seniors and others in our community. The File of Life is



primarily a medical information form that includes important contacts such as family members, doctors, and insurance companies. Along with that information, the form also has space for medical information

including allergies, any medications the person is currently taking, any current known medical conditions, and end of life wishes.

The form is placed in a bright red File of Life magnetized pouch to be placed on the refrigerator or any other highly visible location. We also provide a wallet/purse-sized File of Life that is a smaller and shorter version of the form that a person can carry on their person or in their vehicle.

In the event a person has a medical emergency or needs emergency medical treatment, any first responders can quickly locate the File of Life, which can be of enormous help.

We first announced our plans to provide the File of Life at a meeting of the Montgomery County Fire Chiefs Association. The Chiefs were all given a sample File of Life to take back their departments. The response was overwhelming! A number of our local fire departments asked us for supplies of the File of Life so they can hand them out.

We were also contacted by a number of area law enforcement agencies who also asked for supplies of the File of Life. In many jurisdictions, the police are often the first to arrive on-scene, and they try to gather as much information as they can for the EMTs. Having the File of Life makes the task of getting valuable medical information much easier.

One of the main benefits to the File of Life is that during a medical emergency, often times, due to dementia or

nervousness, the patient is unable to remember what medications they take or the name of their doctor. The File of Life provides an easy way to have all the critical information available in one place.

Since the programs start, our office has given out the File of Life materials to senior groups, senior citizen centers, and at presentations to local groups and organizations. We encourage all the seniors in our community to have a File of Life and stress the importance of keeping the information up to date.



Interestingly, we were contacted by the University of Dayton Department of Safety who requested 500 of the File of Life to give to their non-English speaking students so that first responders would have information that language barriers would make it difficult to obtain.

In summary, our office has given out approximately 9,000 copies of the File of Life. If the information contained on them can assist in making someone safer, our goal is realized.

If you would like more information on the File of Life, which is published and distributed by a non-profit organization, contact the Montgomery County Prosecutor's Office Public Information Officer, Greg Flannagan, at 937-225-5610 or flannagan@mcohio.org, or visit the File of Life website at <https://www.folife.org/>

Thank you to Montgomery County for providing this article. If your county would like a community outreach program featured please email the information to Steve or Lou.

Advocacy Day at the Statehouse!

Eleven prosecutors from across the state converged on the Statehouse on April 9 to spend a day-in-the-life of their legislator, and let them know what legislation is important to OPAA members and how it affects work in the trenches. Thanks to all who participated and special thanks to the legislators who made time to allow this to happen. Look for us to do this again in the future.



(Senate President Obhof with Richland County Prosecutor Gary Bishop)

New and Noteworthy

OPAA welcomes new Delaware County prosecutor Melissa Schiffl as well as Clark County prosecutor Dan Driscoll. We asked them three questions: What made you want to be a prosecutor? What excites you most about your new position? What do you like to do in your spare time? Their answers are at the end of the newsletter.



Annual Meeting

The 2019 OPAA Annual Meeting will change venues this year. We will be at the Hilton Columbus at **Easton**, rather than downtown. We look forward to the new venue, increased shopping opportunities, and local attractions.

OPAA Takes a Long Lunch in Montgomery County

The OPAA and the Montgomery County Prosecutor's Office along with the Supreme Court of Ohio Commission on Professionalism, the Ohio Association of Criminal Defense Lawyers, and the Dayton Bar Association organized a luncheon on professionalism in the criminal justice system on



April 16. The lunch built on previous programs held in Columbus and Cleveland and is intended to promote discussion of

professionalism between attorneys and judges in the criminal justice arena. Special thanks to Montgomery County Prosecutor Mat Heck and Warren County Prosecutor Dave Fornshell for their participation. Look for another lunch later this year in a different area of the state.



OPAA Membership at the Statehouse!

Wood County Prosecutor Paul Dobson joined us at the Statehouse to testify on Senate Bill 55 regarding drug trafficking near a community addiction services provider. Thanks Paul! (shown here with bill's sponsor Sen. Gavarone)



Allen County Prosecutor Juergen Waldick spent the day in Columbus with Svenia Hesse, a second-year law exchange student from The University of Münster (Germany). Brutus just happened to be in the Senate Chambers as well!



While in town, Juergen provided proponent testimony on SB48 (Speedy Trial). Thanks Juergen!



Licking County Assistant Prosecutor Paula Sawyers also provided proponent testimony on SB48. Thanks Paula!



Gallia County Prosecutor Jason Holdren along with Gallia County Sheriff Matt Champlin provided proponent testimony on HB161 (abuse of corpse). Thanks to both for making the long trip!



OPAA Legislative and Executive Committee Meetings

May 23 - Delaware Golf Club

June 20 - Breakers Hotel Cedar Point

July 25 - Cooper's Hawk Winery Easton

2019 OPAA Training Dates

Please join us in 2019 for our CLE training programs.

OPAA Summer Workshop, June 21st & 22nd, Breakers Cedar Point, Sandusky

OPAA Webinar - Suppression Issues and the Fourth Amendment, July 9th, 12:00-1:00.

OPAA Fall Training, September 26th and 27th, Cleveland Crowne Plaza Playhouse Square

OPAA Juvenile Prosecutor training, October 24th, Sheraton Columbus at Capitol Square

OPAA Annual Meeting, December 12th & 13th, Hilton Easton Columbus

Webinars:

The OPAA will be hosting quarterly webinars throughout the year. These 1 hour, CLE approved trainings will feature Phil Bogdanoff presenting on a variety of topics. We will send out details prior to each.

Your 2019 OPAA Officers



Victor V. Vigluicci
Portage County
President



Juergen A. Waldick
Allen County
President-Elect



Daniel R. Lutz
Wayne County
Vice President



Michael C. O'Malley
Cuyahoga County
Treasurer



Jane Hanlin
Jefferson County
Secretary



New Prosecutors take Office!

As mentioned above, Clark and Delaware have new folks at the helm. We asked each to answer a few questions:

Clark County – Dan Driscoll

What made you want to be a prosecutor?

In law school I had a Criminal Procedure Professor, who was an Assistant County Prosecutor. One day he asked me to come to court with him. I attended the disposition of two young men who had committed a violent home invasion. There was a level of excitement and electricity in the courtroom and I was hooked after that.

What excites you most about your new position?

The opportunities to shape the community that I live in and make the world a little safer for my kids are really what drives me and what excites me about this job moving forward.

What do you like to do in your spare time?

I enjoy coaching my children's soccer teams, attending Dayton Flyers basketball games, playing golf, and spending time with my family.

Delaware County – Melissa Schiffel

What made you want to be a prosecutor?

Since a young age, I have always fought for fairness. I remember standing up for myself on the playground and defending classmates I thought were being treated unfairly. Prosecution provided me a career to fight for fairness and justice. If you ask my dad, he will tell you I became a prosecutor because I like to have the last word, but naturally I disagree. Ha!

What excites you most about your new position?

The opportunities. Delaware County is the fastest growing county in Ohio. The opportunities to impact our community and our future as a whole are immeasurable.

What do you like to do in your spare time?

Spare time is a luxury these days, but I enjoy whatever family time I get with my husband and daughter when the three of us are together. My husband works midnight shift as a police officer so we are often ships passing the night. I enjoy our three days together when he is not working, and we make time to be together with our daughter Perri, who is about to turn four. It can be as simple as a trip to the park, watching The Little Mermaid, or playing "party" as my daughter likes to pretend.

Thank you Prosecutor Driscoll and Prosecutor Schiffel for taking the time to answer our questions.