



# THE OHIO PROSECUTOR

July 2018

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[www.ohiopa.org](http://www.ohiopa.org)  
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## From your President...



Greetings Ohio Prosecutors, APA's and Support Staffs,

I hope this newsletter finds you enjoying the Summer and accomplishing your personal and professional objectives! On behalf of the OPAA please know that our Association is always striving to provide you with professional support and continually monitoring all legislative activities that may impact the work of Prosecutors. There are many important items on the OPAA radar, and we recognize the good work of Executive Director Lou Tobin and Assistant Director Steve Hall in helping us keep up with those issues. More details on our activities is discussed in this quarterly newsletter and in our Legislative Updates.

I was pleased to represent the OPAA recently as part of the Ohio Attorney General's Elder Abuse Commission, during a panel presentation and training regarding the work of the Commission and issues related to Elder Abuse and Financial Exploitation. Special thanks to prosecutors all over Ohio who routinely participate in the presentation of a wide variety of trainings for those we serve including law enforcement, school officials, township trustees and other public officials.

We conducted our Summer Workshop at the Hotel Breakers Conference Center, June 21-23 with 177 in attendance, representing 43 Ohio counties! Feedback on the event and training topics was very positive. The opportunity to network with colleagues is always an invaluable benefit at the Summer meetings.

Please plan to join us at the 2018 OPAA Fall Training to be held September 20<sup>th</sup> and 21<sup>st</sup> at the Crowne Plaza on Playhouse Square in Cleveland.

Morris

## From your Executive Director...



Dear OPAA Members –

At the beginning of June, the Ohio House of Representatives elected a new Speaker of the House, Rep. Ryan Smith from Bidwell in Gallia County. His election was followed by a flurry of activity in the legislature as the House dealt with a backlog of bills and as both chambers worked on remaining priorities prior to the summer recess. Several bills that the OPAA was working on were enacted while other were reported out of committee and/or voted out of one chamber of the legislature. As always, a list of these bills and the OPAA's position is included below. As you run into your local legislators over the summer, please share your and our concerns with bills that are still pending.

In addition to the legislative activity, several other OPAA committees have been hard at work. The Membership Services Committee met in April and the Outreach Committee met in May. Both are establishing priority projects and working to develop resources that we hope will be useful to prosecutors across the state. More information on these projects is found below. Additionally, the Ethics and Training Committee has put together a great program for our Fall Training that will take place September 20 – 21 in Cleveland. Registration information will be mailed soon. We hope to see you there.

Best wishes for a great summer.

Lou

## New and Noteworthy

Ohio Supreme Court seeks public comment to proposed rule changes on domestic violence, stalking, and juvenile protection orders. See <http://CourtNewsOhio.gov>

2018 OPAA Fall Training – April 19<sup>th</sup> and 20<sup>th</sup>  
Details at <http://www.ohiopa.org/training/fall18.html>

### Proposed Constitutional Amendment Certified for Fall Ballot

The campaign for the “Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment” submitted over 700,000 signatures to the Ohio Secretary of State at the beginning of July. The campaign needed 305,591 valid signatures to secure ballot access. They submitted 351,095 valid signatures.

The proposal has five primary components:

- 1) Reduces fourth and fifth degree felony drug possession offenses to misdemeanors.
- 2) Outlines a system of “graduated responses” that may be used in lieu of prison to hold offenders accountable.
- 3) Creates a mechanism by which individuals previously convicted of fourth or fifth degree felony drug possession can apply to have the charge reduced.
- 4) Expands “earned-credit” to allow for up to a 25% sentence reduction for offenses other than murder, rape, and child molestation
- 5) Requires that any budget savings realized through these reforms be given to communities through competitive grants

Proponents assert that this will cut off the addiction-to-prison and probation-to-prison pipelines, reward personal transformation, and promote safety for communities.

The OPAA is working with our law enforcement partners and other stakeholders on a unified message of opposition to this proposal. We believe that the proposal undermines public safety, undermines treatment efforts that are already underway, and sends the wrong message to communities about the destructiveness, both personal and otherwise, of drug abuse. We hope to have a more formal position to distribute soon.

## At the Statehouse

Here is recently enacted legislation and priority legislation for 2018. For a full list of bills that we are tracking visit [www.ohiopa.org](http://www.ohiopa.org). If you have any questions about the work of the legislature or the status of any legislation please let us know!

### **Enacted**

Senate Bill 4 (Human Trafficking – Expungement) - To allow a person who is found not guilty of an offense or who is the defendant named in a dismissed criminal charge to apply for a court order to expunge the person's official records in the case if the charge or not guilty finding was the result of the applicant having been a human trafficking victim, to allow a person convicted of certain prostitution-related offenses to apply for the expungement of the conviction record of any offense, other than a specified disqualifying offense, the person's participation in which was a result of having been a human trafficking victim, and to allow intervention in lieu of conviction for persons charged with committing an offense while a victim of compelling prostitution. **Effective September 28, 2018.**

House Bill 8 (Public Records – Minors) - To exempt from the Public Records Law certain information concerning a minor that is included in a record related to a traffic accident involving a school vehicle in which the minor was an occupant at the time of the accident. **Effective September 28, 2018**

House Bill 366 (Child Support Reform) - To make changes to the laws governing child support. **Substantive changes become effective March 28, 2019.** The Act notes that the delay is intended to allow the Ohio Department of Job and Family Services to perform necessary automated system changes and to organize and oversee the statewide training of local child support enforcement agencies, lawyers who practice in child support, and judges who provide over child support cases.

Senate Bill 66 (Criminal Justice Reforms) - To modify criminal sentencing and corrections law by including the promotion of effective rehabilitation as a purpose of felony sentencing, removing the one-year minimum for presumptive fourth or fifth degree felony community control sanctions, modifying sanctions for a violation of a community control condition, modifying the manner of calculating confinement credits, modifying eligibility criteria and procedures for granting pre-trial diversion and intervention in lieu of conviction, making offenders convicted of certain multiple fourth or fifth degree felonies eligible for conviction record sealing, revising procedures for the Adult Parole Authority to grant a final release or terminate post-release control, and modifying the criteria for considering a prison term sanction for a post-release control violation; to extend the State Highway Patrol's authority to enforce criminal laws to also apply to the Northeast Ohio Correctional Center; to modify the penalty for an employer's failure to remit state income taxes withheld from an employee; and to authorize the conveyance of state-owned real estate. **Effective October 29, 2018**

House Bill 95 (Distracted Driving) - To establish an enhanced penalty for committing a moving violation while distracted if the distraction is the apparent cause of the violation and to reenact provisions of law that specified that certain electronic wireless communications device violations were allied offenses of similar import. **Effective October 29, 2018**

Senate Bill 1 (Drug Laws – Fentanyl) - To increase penalties for drug trafficking violations, drug possession violations, and aggravated funding of drug trafficking when the drug involved in the offense is a fentanyl-related compound, to revise the manner of determining sentence for certain violations of the offense of permitting drug abuse, and to add lisdexamfetamine to the list of schedule II controlled substances. **Effective October 31, 2018**

### **We have one other bill of interest that is awaiting the Governor's signature:**

House Bill 34 (Official Notices/Airport Representation) - To authorize certain state agencies, local governments, and other boards, commissions, and officers to deliver certain notices by ordinary mail and electronically instead of by certified mail. Authorizes a county prosecuting attorney to enter into a contract with a regional airport authority, port authority, or regional planning commission to be its legal adviser.

We will send out information on this bill when it becomes available.

## Pending Priority Legislation

HB81 DEATH SENTENCE-MENTAL ILLNESS (SEITZ B, ANTONIO N) To provide that a person convicted of aggravated murder who shows that the person had a serious mental illness at the time of committing the offense cannot be sentenced to death for the offense and to provide a mechanism for resentencing to a life sentence a person previously sentenced to death who proves that the person had a serious mental illness at the time of committing the offense.

Current Status: 5/15/2018 - SUBSTITUTE BILL

ACCEPTED, House Criminal Justice, (Fourth Hearing)

Comments: *A substitute version of the bill, accepted by the House Criminal Justice Committee on May 15, removes the burden shifting process. Instead, the substitute version establishes a pretrial hearing to determine whether the defendant is death penalty ineligible due to a "serious mental illness." The defendant would be required to prove, by a preponderance of the evidence, that a serious mental illness, as defined in the bill, impaired their capacity to conform their conduct to the law or appreciate the wrongfulness of their actions.*

**OPAA Position: Oppose**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-81>

HB228 USE OF FORCE IN SELF-DEFENSE (JOHNSON T, LATOURETTE S) To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises.

Current Status: 5/22/2018 - REPORTED OUT, House Federalism and Interstate Relations, (Seventh Hearing)

Comments: *A substitute version of the bill was adopted on April 10. While the OPAA continues to oppose this legislation, the substitute bill does address one OPAA concern. The previous version of the bill provided that the burden of proof for self-defense shifted to the prosecution if the defendant produced evidence that tended to support that they were acting in self-defense. The substitute version of the bill provides instead that burden shifts if the defendant can produce evidence upon which a factfinder can rationally find, when reviewed in a light most favorable to the accused, that the defendant was acting in self-defense. The substitute bill also prohibits the use of the statutory affirmative defense for anyone who uses force during the commission of, attempted commission of, or escape after a felony offense of violence.*

**OPAA Position: Oppose**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-228>

HB296 DRUG CRIME NEAR ADDICTION SERVICES (GAVARONE T) To enhance penalties for certain drug offenses committed in the vicinity of a community addiction services provider.

Current Status: 6/20/2018 - PASSED BY HOUSE; Vote 92-1

**Position: Support**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-296>

HB355 SEXTING UNDER 19 (HILL B, REZABEK J) To generally prohibit sexting by a person under 19 years of age.

Current Status: 6/27/2018 - PASSED BY HOUSE; Vote 94-0

**Position: Oppose**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-355>

HB365 REAGAN TOKES LAW (HUGHES J, BOGGS K) To provide for indefinite prison terms for first or second degree felonies and specified third degree felonies, with presumptive release of offenders sentenced to such a term at the end of the minimum term; to generally allow the Department of Rehabilitation and Correction with approval of the sentencing court to reduce the minimum term for exceptional conduct or adjustment to incarceration; to allow the Department to rebut the release presumption and keep the offender in prison up to the maximum term if it makes specified findings; to require the Department to establish a reentry program for all offenders released from prison who it intends to have reside in a halfway house or similar facility but who are not accepted by any such facility; to require the Adult Parole Authority to establish maximum work-load and case-load standards for its parole and field officers and have enough trained officers to comply with the standards; to require that GPS monitoring used for offenders released from prison under such monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones; to require the Department to establish system requirements for GPS monitoring of such offenders by the Department or third-party contract administrators; to require the Department to operate a statewide database for law enforcement use containing specified information about such offenders; to require that third-party administrators for GPS monitoring under a new contract with the Department provide and use a law enforcement-accessible crime scene correlation program; to require the Ohio Criminal Sentencing Commission to appoint an Offender Supervision Study Committee; and to name the act's provisions the Reagan Tokes Act.

Current Status: 6/20/2018 - PASSED BY HOUSE; Vote 90-3

Comments: *A substitute version of the bill was accepted on March 13. The substitute version addresses OPAA concerns regarding early release for good behavior. The previous version of the bill authorized ODRC to grant a 5%-15% sentence reduction for "exceptional conduct while incarcerated" or "adjustment to incarceration." The substitute version instead authorizes the sentencing court to grant a reduction after a recommendation by ODRC. See also the companion legislation, Senate Bill 201 and Senate Bill 202.*

**Position: Support**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-365>

HB394 MANDATORY JUVENILE BINDOVERS (REZABEK J) To revise the law concerning serious youthful offender dispositions and bindovers of an alleged juvenile offender from a juvenile court to a criminal court; to revise the procedures for determining the delinquent child confinement credit; to revise certain delinquent child financial sanction dispositions and procedures and establish a separate restitution disposition; to permit a juvenile court or a child's guardian ad litem to file a motion to place a child in a planned permanent living arrangement; to eliminate a requirement that each county family and children first council include a representative of the regional office of the Department of Youth Services; and to provide special parole eligibility dates for persons with an indefinite or life sentence imposed for an offense committed when the person was under age 18 and special Parole Board procedures in those cases.

Current Status: 5/22/2018 - REPORTED OUT, House Criminal Justice, (Fourth Hearing)

Comments: *A second substitute version of the bill was accepted on May 15. The substitute version restores existing law requiring a bindover when a child is charged with aggravated murder and was 16 or 17 at the time of the act and requiring an SYO designation for juveniles who are reverse boundover from criminal court back to juvenile court. The substitute version also makes changes to the parole eligibility requirements for persons sentenced as an adult for one or more offenses committed when the person was under 18.*

**Position: Oppose**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-394>

HB411 WRONGFUL IMPRISONMENT LAW (SEITZ B, SYKES E) To modify the state's wrongful imprisonment law.  
Current Status: 6/19/2018 - Referred to Committee Senate Judiciary

**Position: Oppose**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-411>

SB20 PERMANENTLY DISABLING CRIME SPECIFICATION (HACKETT R) To require an additional prison term of 3 to 8 years for an offender who is convicted of or pleads guilty to a felony offense of violence if the offender is convicted of or pleads guilty to a specification that the victim suffered permanent disabling harm.

Current Status: 4/10/2018 - REPORTED OUT AS AMENDED, House Criminal Justice, (Third Hearing)

**Position: Support**

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-20>

*Bill information courtesy of Hannah News Service, Inc.*

## 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

The Membership Services Committee met by conference call on April 4 to establish some priority projects. One of several priorities that they identified was for the OPAA to create a list of subject area expert assistant prosecutors. Information on expert assistants was collected as part of a larger survey that we conducted in April and May. More than half of the counties responded. We now have a list of expert assistants that have volunteered to provide guidance and advice on topics like sexual assault, child abuse, drug prosecution, and others. This list, which includes contact information for the assistant prosecutors, can be found at [www.ohiopa.org/expertasst](http://www.ohiopa.org/expertasst). Contact Steve Hall for log-in information. If your office has an expert assistant who would like to be added to our list, please let us know.

## Community Outreach

Delaware County works with local police departments to present joint self-defense classes at independent and assisted living communities.

Another of their local PDs (Powell Police Department) launched radKIDS, a new program that will provide education to children and their guardians to enhance their ability to use knowledge, skills and power to protect themselves from unsafe situations. radKIDS is a program designed for children ages 8-12 and educates kids on their decision-making skills. The curriculum includes lessons on home, fire, internet, public, road, drug and vehicle safety and information on dealing with bullies and stranger danger. The Delaware County Sheriff's Office will also be assisting the Powell Police Department with classes. Classes are free.

## OPAA Committee Meetings

Executive and Legislative Committee

August 23 – (TBD)

September 19th – Crowne Plaza Cleveland Playhouse Square

October 25 – Granville Inn, Granville, Ohio

## Ohiopa.org

The "Pressroom" area of the OPAA website is being updated regularly. Check out the latest news from around the state or your hometown! <http://www.ohiopa.org/pressroom.html>

## @ohprosecutors

We are taking an active role in the OPAA Twitter and Facebook accounts, sharing information about our membership with the world! If you haven't followed or liked us, please take a few seconds and do so. Quick links are on the first page of this newsletter under "follow us".

## 2018 OPAA Training Dates

Please join us in 2018 for our CLE training programs.

### Fall Training

September 20<sup>th</sup> and 21<sup>st</sup>

Crowne Plaza on Playhouse Square, Cleveland, Ohio

<http://www.ohiopa.org/training/fall18.html>

### Support Staff

October 18<sup>th</sup>

Sheraton Columbus at Capitol Square, Columbus, Ohio

### Annual Meeting

November 29<sup>th</sup> and 30<sup>th</sup>

Hilton Columbus Downtown, Columbus, Ohio

## Your 2018 OPAA Officers



Morris J. Murray  
Defiance County  
President



Carol O'Brien  
Delaware County  
President Elect



Juergen A. Waldick  
Allen County  
Vice President



Daniel R. Lutz  
Wayne County  
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