

Ohio Justice and Policy Center

Criminal Justice Issues and Prisoners' Rights

<https://ohiojpc.org/2020/07/03/legislative-update-sb3-passes-senate-hb1-next/>

Campaign and Advocacy

by [Marais Jacon-Duffy](#) | Jul 3, 2020 | [News](#), [Policy Reform](#), [Sentencing Reform](#)

On June 30, the Senate passed SB3 by a 25-4 vote. This is a bill that primarily focuses on drug resentencing, but it also expands record sealing in ways that will help many OJPC clients who face barriers to employment, housing, and education due to their criminal records.

The bill is one of two major criminal reforms sparked by the Issue 1 Campaign in 2018. HB1 passed through the House, was introduced in the Senate, but its been in the Senate Judiciary Committee since September 2019.

These two bills complement one another; choosing only one to pass is a false choice. We urge the Senate to pass HB1 expeditiously, to maximize the effects of these data-backed reforms and ensure a better justice system for all Ohioans.

The bill alters 78 sections of the revised code while adding 5 new sections. Some of the highlights of the 546-page bill are below.

Drug Trafficking, Possession and Sentencing Changes

The bulk of the bill revises drug possession and trafficking offenses by reclassifying low-level drug possession offenses from felonies to unclassified misdemeanors. The bill also separates drug possession from drug trafficking offenses by creating new categories of drug trafficking offenses and drug possession offenses into new categories: aggravated drug trafficking; major trafficking in drugs; trafficking; possession of a controlled substance; possession of marijuana; possession of hashish; possession of a controlled substance trace amount; and possession of a controlled substance trace amount of marijuana or hashish.

The bill also creates a new offense of attempting to commit an unclassified misdemeanor drug possession offense that is treated with the same penalty (first-degree misdemeanor) as if the person did commit the unclassified misdemeanor drug possession offense.

The impact of the reclassification aspects of the bill means that far fewer people will be charged with life-altering felony drug possession charges that will impact their lives long after they complete the sentence. Another benefit is that, in most cases, people will not go to prison for minor drug possession charges since the unclassified misdemeanor charge has a presumption against a prison term.

Conviction Record Sealing Law Changes

SB3 makes parallel changes to Ohios criminal record-sealing statutes to account for felonies that are converted into unclassified misdemeanors. The bill does so by modifying eligibility to apply for sealing to include a specific reference to persons convicted of a newly reclassified drug possession offense. Those persons are to be considered as convicted misdemeanants. The bill also allows a person convicted of any new possession charges to apply for sealing upon successful completion of court-ordered treatment programs or intervention.

Not Guilty/Dismissed Record Sealing Law Changes

Another significant change made by SB3 is a modification of one of Ohios sealing statute provisions. The changes to the Not Guilty/Dismissed Charges Record Sealing provision (2953.51 to 2953.52) ensure this statute applies to a person charged with any of the bills new possession offenses who had the charge held in abeyance, who then successfully completed the treatment program or intervention plan and has the charges dismissed. In other words, when a person successfully completes a drug treatment plan ordered by the court, that person can seal the record immediately after completing the program as if the charge resulted in a not guilty or dismissed verdict.

State Criminal Sentencing Commission Duties

SB3 designates the Criminal Sentencing Commission as a criminal justice agency. It also authorizes it to use computerized databases of the National Crime Information Center or LEADS for the purpose of making criminal justice information accessible to state criminal justice agencies, SB3 also requires the Commission to make biennial to the General Assembly and the Governor.

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