



# THE OHIO PROSECUTOR

October 2021

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## Contact Us

[www.ohiopa.org](http://www.ohiopa.org)



## From your President...



Daniel R. Lutz  
Wayne County

My Fellow Prosecutors,

Occasionally our Executive Director, Lou Tobin, will email the OPAA membership asking prosecutors to contact their state representatives and senators to advocate for or against legislation that is pertinent to public safety and what we do as prosecutors.

Many of you may be surprised regarding the significant impact prosecutors can have by simply contacting their state representatives and senators to respectfully offer an opinion regarding proposed legislation. And that impact can be exponentially increased by establishing on-going, cordial relationship with our General Assembly members where they feel comfortable reaching out to us with questions they may have when they are considering bills that relate to criminal justice matters.

In my years as a prosecutor, the OPAA's greatest value has been the Association's ability to positively steer legislation in the right direction. Do we always get what we want? No, but I can assure you that our criminal justice system in Ohio would be much worse for wear if not for your efforts and the work of the staff at the OPAA. Yet we can always do a little bit more.

I encourage all of you to take the time to call, email or even send a good, old fashioned letter to our legislators when the call goes out from Director Tobin to do so. Better yet, take them to lunch!

Thank you for all you do to make Ohio a great state in which to live and work.

Dan

## From your Executive Director...



Louis Tobin  
OPAA Executive  
Director

Dear OPAA –

In honor of Domestic Violence Awareness month, I thought I would write about two significant pieces of domestic violence related legislation making their way through the General Assembly – House Bill 3 (Aisha’s Law) and Senate Bill 90 (Felony Strangulation).

Originally introduced by Rep. Janine Boyd and Rep. Sara Carruthers during the last General Assembly, the bill is named in honor of Aisha Fraser who was murdered by her ex-husband who had been convicted a couple of years prior for assaulting her. The bill has gone through multiple revisions over three years and includes the following changes (1) expands aggravated murder to circumstances where the offender has previously been convicted of felony domestic violence or a felony offense of violence that resulted in serious physical harm against the same family or household member who was murdered, (2) expands the offense of domestic violence to prohibit strangulation and makes strangulation a felony offense, (3) creates a new emergency protection order that may be obtained by a law enforcement officer on behalf of a victim of domestic violence at any time when a court is not available for regular business, (4) requires the use of a lethality assessment screening tool and requires consideration of the results when making a referral to advocacy services, when a court sets bail, and when a court a sentences, (5) creates a Domestic Violence Prosecution Study Committee, and (6) encourages prosecuting attorneys in domestic violence cases to consider the totality of the circumstances, review all evidence in the case, and resist seeking voluntary dismissal or no contest based solely on the victim’s wishes, unless justice demands otherwise. Senate Bill 90 deals solely with the issue of strangulation in a domestic violence context.

The OPAA supports both of these bills. There is particular urgency that the legislature enact a felony strangulation law. This is the fourth General Assembly in row in which strangulation legislation has been proposed but not passed. Ohio is one of only two states without such a law. The time for action on this important law is now.

House Bill 3 was voted out of the House on October 27. Senate Bill 90 has had two hearings in the Senate Judiciary Committee, the last in June. Please consider contacting your legislators, and in particular your State Senator, about these bills and encourage them to pass a felony strangulation law now.

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.ohioopa.org](http://www.ohioopa.org). **Please contact Lou if you have any questions about a piece of legislation or the reason for our position.** Also, if you have any questions about the work of the legislature or the status of any legislation, please let us know!

**HB3 AISHA'S LAW REGARDING DOMESTIC VIOLENCE (BOYD J, CARRUTHERS S)** To make changes to civil and criminal law regarding domestic violence, to address State Highway Patrol arrest authority, to name the act Aisha's Law, and to make an appropriation.  
Current Status: 10/27/2021 - Bills for Third Consideration  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-3>

**HB4 REGARDS CHILD ABUSE, NEGLECT REPORTING (PLUMMER P, MANCHESTER S)** Regarding county child abuse and neglect memorandums of understanding, cross-reporting of child abuse and neglect reports by public children services agencies to law enforcement agencies, notification of reporter rights, home assessor eligibility, and creation of the children service ombudsman office.  
Current Status: 10/19/2021 - Senate Judiciary, (Second Hearing)  
Position: Monitor  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-4>

**HB8 REVISE ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS (WEST T, PLUMMER P)** To revise the law governing the electronic recording of custodial interrogations and to make changes to the prohibition against the restraint of a pregnant woman or child who is charged or has been convicted of an offense.

Current Status: 5/17/2021 - SIGNED BY GOVERNOR; eff. Immediately  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-8>

**HB22 EXPAND OFFENSE OF OBSTRUCTING JUSTICE (LARE J, WILKIN S)** To expand the offense of obstructing justice to include failure to follow a lawful order from a law enforcement officer, diverting a law enforcement officer's attention, and throwing an object at a law enforcement officer.  
Current Status: 9/8/2021 - Referred to Committee Senate Judiciary  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-22>

**HB44 INCREASE PENALTIES - ASSAULT (ROEMER B, MILLER J)** To increase the penalties for assault if the victim is acting as a sports official or the assault is committed in retaliation for the victim's actions as a sports official.  
Current Status: 10/19/2021 - Senate Judiciary, (First Hearing)  
Position: Oppose  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-44>

**HB83 REVISE CHILD SUPPORT LAWS (RUSSO A, MANCHESTER S)** To make changes to child support laws with regard to caretakers.  
Current Status: 9/8/2021 - Referred to Committee Senate Judiciary  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-83>

**HB89 REVISE CONCEALED HANDGUN LAW (WIGGAM S)** To modify the requirement that a concealed handgun licensee must notify a law enforcement officer that the licensee is authorized to carry a concealed handgun and is carrying a concealed handgun when stopped.  
Current Status: 3/9/2021 - REPORTED OUT, House State and Local Government, (Third Hearing)  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-89>

**HB109 INCREASE PENALTIES - RIOT OFFENSES (ABRAMS C, CARRUTHERS S)** To increase penalties for certain assault, vandalism, and riot offenses, to allow peace officers to bring civil suits against persons participating in a riot, and to prohibit bias motivated intimidation of first responders.  
Current Status: 6/24/2021 - BILL AMENDED, House Criminal Justice, (Third Hearing)

<p>Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-109">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-109</a></p> <p>HB110 OPERATING BUDGET (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2021, and ending June 30, 2023, to levy taxes, and to provide authorization and conditions for the operation of state programs.  Current Status: 7/1/2021 - SIGNED BY GOVERNOR; effective 7/1/21  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-110">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-110</a></p> <p>HB116 OHIO COMPUTER CRIMES ACT (BALDRIDGE B) To enact the Ohio Computer Crimes Act and to amend the version of section 109.572 of the Revised Code that is scheduled to take effect October 9, 2021, to continue the provisions of this act on and after that date.  Current Status: 10/26/2021 - House Criminal Justice, (Third Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-116">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-116</a></p> <p>HB121 ELIMINATE SPOUSAL EXCEPTIONS FOR SEXUAL OFFENSES (LANESE L, BOGGS K) To eliminate the spousal exceptions for the offenses of rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, and importuning and to permit a person to testify against the person's spouse in a prosecution for any of those offenses.  Current Status: 5/26/2021 - House Criminal Justice, (Second Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-121">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-121</a></p> <p>HB150 OHIO PUBLIC DEFENDER STATE LOAN REPAYMENT PROGRAM (HILLYER B, LELAND D) To establish the Ohio Public Defender State Loan Repayment Program, to establish a task force to study Ohio's indigent defense system, and to make an appropriation.  facilities, buildings, premises, or property and to name the act the State Property Protection and Prosecution Act.  Current Status: 5/4/2021 - Re-Referred to Committee  Position: Amend  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-150">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-150</a></p> <p>HB166 REGARDS CRIMINAL SENTENCING, CORRECTIONS (BOGGS K, CARFAGNA R) To modify the Criminal Sentencing Law with respect to non-life felony indefinite</p>	<p>sentencing, to modify the process for felony appeals as a matter of right, to modify the Corrections Law regarding a Department of Rehabilitation and Correction reentry program for certain offenders, maximum workload and caseload standards for parole and field officers, GPS monitoring of offenders released from prison, and entry into LEADS of specified information about GPS-monitored offenders, and to require the Ohio Criminal Sentencing Commission to appoint an Offender Supervision Study Committee.  Current Status: 9/30/2021 - House Criminal Justice, (Second Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-166">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-166</a></p> <p>HB183 ABOLISH DEATH PENALTY (SCHMIDT J) To abolish the death penalty and to modify the number of jurors that may be challenged in cases where a defendant may be sentenced to life imprisonment.  Current Status: 9/23/2021 - House Criminal Justice, (Second Hearing)  Position: Oppose  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-183">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-183</a></p> <p>HB206 PERMIT TOWNSHIP POLICE ENFORCE CERTAIN OFFENSES ON INTERSTATE (GHANBARI H, O'BRIEN M) To permit a township police officer who serves a population between 5,000 and 50,000 to enforce specified traffic offenses on interstate highways within the township if authorized by that township's board of trustees.  Current Status: 6/2/2021 - Senate Government Oversight and Reform, (First Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-206">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-206</a></p> <p>HB211 STATE PROPERTY PROTECTION, PROSECUTION ACT (LARE J, PLUMMER P) To provide in specified circumstances for the Attorney General's prosecution of criminal activity committed at, or on, certain specified state  Current Status: 3/17/2021 - Referred to Committee House Criminal Justice  Position: Amend  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-211">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-211</a></p> <p>HB227 REGARDING CONCEALED WEAPONS (BRINKMAN T, JORDAN K) To rename a concealed handgun license as a concealed weapons license, to allow a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, to expand state preemption of firearms regulation to include all deadly weapons, to repeal a notice requirement for licensees stopped for law enforcement</p>
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<p>purposes, to authorize expungement of related convictions, and to allow a person age 21 or older to carry a concealed deadly weapon without a license.  Current Status: 10/28/2021 - House Government Oversight, (Fifth Hearing)  Position: Monitor  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-227">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-227</a></p> <p>HB241 REVISE TAX FORECLOSURES LAW (PATTON T)  To make changes to the law relating to tax foreclosures and county land reutilization corporations.  Current Status: 4/14/2021 - Referred to Committee House State and Local Government  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-241">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-241</a></p> <p>HB276 PROHIBIT PROSTITUTION PROCEEDS (POWELL J, SCHMIDT J) To prohibit a person from receiving proceeds of prostitution.  Current Status: 10/26/2021 - House Criminal Justice, (Second Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-276">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-276</a></p> <p>HB283 EXPAND DISTRACTED DRIVING LAWS (ABRAMS C, LAMPTON B) To expand the texting while driving prohibition to a general prohibition against using an electronic wireless communications device while driving, with certain exceptions, and to create data collection requirements based on associated violations of the distracted driving laws.  Current Status: 9/23/2021 - BILL AMENDED, House Criminal Justice, (Third Hearing)  Position: Amend  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-283">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-283</a></p> <p>HB286 AGENCY ORDER APPEAL - LOCAL COURT OF COMMON PLEAS (SEITZ B) To change the venue in which appeal from an agency order is proper to the local court of common pleas.  Current Status: 6/22/2021 - REPORTED OUT, House Civil Justice, (Fifth Hearing)  Position: Oppose  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-286">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-286</a></p> <p>HB315 REGARDING BAIL (LELAND D, HILLYER B) To make changes regarding bail.</p>	<p>Current Status: 6/10/2021 - House Criminal Justice, (Second Hearing)  Position: Oppose  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-315">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-315</a></p> <p>HB319 EXPANDING HUMAN TRAFFICKING JUSTICE ACT (GALONSKI T, RICHARDSON T) To allow a victim of human trafficking to expunge certain criminal records and to name this act the Expanding Human Trafficking Justice Act.  Current Status: 5/25/2021 - Referred to Committee House Criminal Justice  Position: Amend  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-319">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-319</a></p> <p>HB343 RIGHTS OF CRIME VICTIMS (WHITE A) To make changes relative to the rights of crime victims.  Current Status: 6/10/2021 - Referred to Committee House Criminal Justice  Position: Amend  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-343">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-343</a></p> <p>HB383 MODIFY PENALTIES FOR HAVING WEAPON UNDER DISABILITY (KOEHLER K) To modify the penalties for the offense of "having weapons while under disability."  Current Status: 10/28/2021 - House Government Oversight, (First Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-383">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-383</a></p> <p>HB390 REGARDING SEXUAL ASSAULT EXAM KITS (LANESE L, JOHN M) To require governmental evidence-retention entities to secure and test sexual assault examination kits in relation to an investigation or prosecution of trafficking in persons.  Current Status: 10/26/2021 - House Criminal Justice, (First Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-390">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-390</a></p> <p>HB406 OFFENSE OF VOYEURISM (SCHMIDT J) To make changes to the offense of voyeurism.  Current Status: 9/21/2021 - Referred to Committee House Criminal Justice  Position: Amend  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-406">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-406</a></p>
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<p>HB408 SALE OF CATALYTIC CONVERTERS (YOUNG B) Regarding the sale of catalytic converters.  Current Status: 9/21/2021 - Referred to Committee House Criminal Justice  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-408">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-408</a></p>	<p>Current Status: 10/26/2021 - Referred to Committee House Criminal Justice  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-459">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-459</a></p>
<p>HB418 REDUCE MENTAL STATE - UNDERAGE PERSON POSSESS ALCOHOL (BIRD A, STEWART B) To reduce the mental state, from knowingly to recklessly, that applies to the prohibition against allowing an underage person to possess or consume alcohol in a private or public place.  Current Status: 10/12/2021 - House Criminal Justice, (First Hearing)  Position: Oppose  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-418">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-418</a></p>	<p>HB462 PROHIBITION ON SWATTING (MILLER K, CARFAGNA R) To prohibit swatting.  Current Status: 10/26/2021 - Referred to Committee House Criminal Justice  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-462">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-462</a></p>
<p>HB427 PROHIBIT ADDICTION TO COMPEL PROSTITUTION (WHITE A, MANCHESTER S) To prohibit the use of a controlled substance or manipulation of controlled substance addiction as a method of human trafficking or to compel prostitution.  Current Status: 10/26/2021 - House Criminal Justice, (Second Hearing)  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-427">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-427</a></p>	<p>SB2 COMPETENCY EVALUATIONS-CRIMINAL CASES (GAVARONE T) To make changes to the requirements for competency evaluations and mental health treatment in criminal cases, to eliminate a provision authorizing the hospitalization, on an emergency basis, of a person found after a hearing to meet the criteria for involuntary substance abuse treatment, and to enter into the Psychology Interjurisdictional Compact (PSYPACT).  Current Status: 4/27/2021 - SIGNED BY GOVERNOR; eff. 8/3/21  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-2">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-2</a></p>
<p>HB455 AVOID CHARGES FOR CARRYING WEAPON INTO CERTAIN PLACES (STOLTZFUS R) To provide an opportunity for a concealed handgun licensee or qualified military member to avoid charges for carrying a deadly weapon into a prohibited place if the person leaves upon request and to penalize failure to leave upon request or returning with a firearm.  Current Status: 10/26/2021 - Referred to Committee House Government Oversight  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-455">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-455</a></p>	<p>SB16 EMS RESPONDERS-CIVIL ACTION (SCHAFFER T) Regarding a civil action for an emergency service responder based on a civil rights abridgement or false complaint, and certain crimes regarding conduct directed at an actual or perceived emergency service responder, public servant, family member, co-worker, or BCII investigator or at a public emergency.  Current Status: 10/26/2021 - House Criminal Justice, (First Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-16">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-16</a></p>
<p>HB456 DECRIMINALIZE FENTANYL TESTING STRIPS (BOGGS K) To decriminalize fentanyl drug testing strips.  Current Status: 10/26/2021 - Referred to Committee House Criminal Justice  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-456">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-456</a></p>	<p>SB25 ENHANCE PENALTIES FOR CERTAIN DRUG TRAFFICKING OFFENSES (GAVARONE T) To enhance penalties for certain drug trafficking offenses committed in the vicinity of a substance addiction services provider or a recovering addict, to prohibit defrauding an alcohol, drug, or urine screening test, and to name the act's provisions the Relapse Reduction Act.  Current Status: 10/12/2021 - House Criminal Justice, (First Hearing)  Position: Support  State Bill Page:  <a href="https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-25">https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-25</a></p>
<p>HB459 PROHIBIT SEX OFFENDERS FROM CERTAIN EMPLOYMENT (CUTRONA A, LARE J) To prohibit certain sex offenders and child-victim offenders from engaging in a specified employment or volunteer capacity involving direct work with, or supervision or disciplinary power over, minors.</p>	

SB36 CRIME VICTIMS - REPARATIONS STANDARDS (MANNING N, HUFFMAN S) To revise the eligibility standards and procedure for awarding reparations to crime victims.  
Current Status: 10/27/2021 - Bills for Third Consideration  
Position: Monitor  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-36>

SB54 TELECOMMUNICATIONS FRAUD (GAVARONE T) To include within the offense of telecommunications fraud providing misleading or inaccurate caller identification information, allow the Attorney General to prosecute offenses of unauthorized use of property and telecommunications fraud, and prohibit any person, entity, or merchant from violating the federal Telemarketing and Consumer Fraud and Abuse Prevention Act.  
Current Status: 10/26/2021 - REPORTED OUT, House Criminal Justice, (Third Hearing)  
Position: Monitor  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-54>

SB90 DOMESTIC VIOLENCE-STRANGULATION (KUNZE S, ANTONIO N) To expand the offense of domestic violence to also prohibit a person from knowingly impeding the normal breathing or circulation of the blood of a family or household member by applying pressure to the family or household member's throat or neck or blocking the family or household member's nose or mouth.  
Current Status: 6/22/2021 - BILL AMENDED, Senate Judiciary, (Second Hearing)  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-90>

SB103 ABOLISH DEATH PENALTY (ANTONIO N, HUFFMAN S) To abolish the death penalty and to modify the number of jurors that may be challenged in cases where a defendant may be sentenced to life imprisonment.  
Current Status: 6/16/2021 - Senate Judiciary, (Second Hearing)  
Position: Oppose  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-103>

SB112 TAX FORECLOSURES, LAND REUTILIZATION (DOLAN M) To make changes to the law relating to tax foreclosures and county land reutilization corporations.  
Current Status: 10/19/2021 - BILL AMENDED, Senate Local Government and Elections, (Third Hearing)  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-112>

SB126 ANTI-HAZING (KUNZE S, GAVARONE T) To enact Collin's Law: The Ohio Anti-Hazing Act with regard to hazing policies at colleges and criminal prohibitions against hazing.  
Current Status: 7/6/2021 - SIGNED BY GOVERNOR; eff. 90 days  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-126>

SB164 ANIMAL CRUELTY (HOTTINGER J, YUKO K) To revise the law and penalties associated with companion animal cruelty and to prohibit the destruction of a domestic animal by the use of a gas chamber.  
Current Status: 10/5/2021 - Senate Agriculture and Natural Resources, (Third Hearing)  
Position: Support  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-164>

SB182 BAIL REFORM (MCCOLLEY R, HUFFMAN S) To make changes regarding bail.  
Current Status: 6/16/2021 - Senate Judiciary, (Second Hearing)  
Position: Oppose  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-182>

SB183 EXPUNGE CRIMINAL RECORDS-TRAFFICKING VICTIMS (FEDOR T, KUNZE S) To allow a victim of human trafficking to expunge certain criminal records and to name this act the Expanding Human Trafficking Justice Act.  
Current Status: 10/19/2021 - Senate Judiciary, (Third Hearing)  
Position: Amend  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-183>

SB203 OPERATING A VEHICLE UNDER THE INFLUENCE-MARIHUANA (MANNING N) To change the laws pertaining to operating a vehicle or watercraft while under the influence of marihuana and the admissibility of evidence regarding the testing of a person's whole blood, blood serum or plasma, urine, breath, or other bodily substance for purposes of OVI statutes.  
Current Status: 9/21/2021 - Senate Veterans and Public Safety, (First Hearing)  
Position: Amend  
State Bill Page:  
<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-203>

SB215 CONCEALED HANDGUN POSSESSION (JOHNSON T) Regarding a concealed handgun licensee's duty to carry the license and notify a law enforcement officer if the licensee is carrying a concealed handgun, a right of a person age twenty-one or older and not legally prohibited from firearm possession to carry a concealed handgun in the same manner as if the person was a

licensee, and a pretrial immunity hearing.

Current Status: 10/5/2021 - Senate Veterans and Public Safety, (Second Hearing)

Position: Amend

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-215>

SB216 CUSTODY OF INFANTS - SUBSTANCE EXPOSURE (JOHNSON T) To enact Dylan's Law regarding parental custody of infants born substance exposed.

Current Status: 9/21/2021 - BILL AMENDED, Senate Judiciary, (First Hearing)

Position: Support

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-216>

SB218 VOYEURISM - INCREASE PENALTIES (ANTANI N) To increase the penalties for the offense of voyeurism.

Current Status: 9/28/2021 - Senate Judiciary, (First Hearing)

Position: Amend

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-218>

SB223 SEALING CERTAIN DISMISSED CHARGES (ANTANI N) To allow for the sealing of charges dismissed through intervention in lieu of conviction when those charges are connected to a conviction for operating a vehicle under the influence and to allow a clerk of court to spend computerization funds upon request.

Current Status: 9/28/2021 - Senate Judiciary, (First Hearing)

Position: Oppose

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-223>

SB226 LIMITATIONS PERIOD - OFFENSES INVOLVING CHILDREN (KUNZE S, ANTONIO N) To extend, from the age of majority to age 26, the tolling of the period of limitation for offenses involving a wound, injury, disability, or condition that indicates abuse or neglect of a child.

Current Status: 9/15/2021 - Referred to Committee Senate Judiciary

State Bill Page:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-226>

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## New and Noteworthy

### Pending Supreme Court Cases of Interest



#### Merit Decisions of Interest Since 8/1/21

**St. v. Jones**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3311. Evidence sufficient on prior calculation and design given the long-standing feud and animosity between the defendant and the victim, and the defendant's decisions to drive to the scene, to arm himself with a gun, and then to shoot the victim to death in short order. (Decided 9-23-21; State's appeal, Hamilton County)

**State v. Glenn**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3369. Trial court's order requiring defense to prepare summaries of witness statements was not a final appealable order because it did not meet all three prongs to qualify as an order entered in relation to a "provisional remedy" that could be immediately appealed. In particular, the defendant could not satisfy the third prong by showing that an appeal after final judgment would not afford the defendant a meaningful or effective remedy. (Decided 9-29-21; Montgomery County)

**State v. Williams**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3152. Court reaffirms its standard governing when the trial court must inquire into the existence of a potential conflict of interest on the part of defense counsel. The mere representation of co-defendants is not enough to trigger this duty of inquiry; some other indicia of conflict must be apparent. The trial court has an "affirmative duty to inquire into multiple representation of codefendants \* \* \* when the trial court knows or has reason to know that a possible conflict of interest exists or when a defendant objects to the multiple representation." (Decided 9-15-21; Cuyahoga County)

**State v. Foreman**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3409. Prosecution failed to prove that the cocaine-possession offense or an element of the offense had occurred in the county of prosecution. The mere presence of cocaine metabolites from drug testing of the newly-born child did not qualify as cocaine possession on the defendant mother's part. And while the positive drug test was circumstantial evidence that the defendant had physically controlled cocaine at some point during her pregnancy, there was



no specific evidence as to the defendant's whereabouts at the time(s) when she used cocaine in the past, and residence in the county of prosecution alone was deemed insufficient to show venue in that county. (Decided 9-30-21; Seneca County)

**St. v. Lawson**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3566. Death penalty for each of four aggravated murders affirmed. (Decided 10-7-21; Lawrence County)

**O'Neal v. State**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3663. ODRC's written lethal-execution protocol (01-COM11) is not a "rule" subject to formal rule-making that would require filing with the secretary of state, the legislative service commission, and JCARR. Instead, the protocol amounts to nothing more than an instruction manual governing ODRC employees regarding the infrequent occurrence of a lethal-injection execution. (Decided 10-19-21; AG's Office)

**State v. Hubbard**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3710. Court rejects retroactive-law challenge to violent-offender-database law. (Decided 10-21-21; Butler County)

**State v. Jarvis**, \_\_\_ Ohio St.3d \_\_\_, 2021-Ohio-3712. Follows *Hubbard* in upholding violent-offender-database law. (Decided 10-21-21; State's appeal; Muskingum County)

**Newly-Accepted Criminal Law Cases Since 8/1//21**

**21-948 St. v. Stansell** Whether a life-tail sentence for a sexually-violent offense that is claimed to exceed the statutory maximum for the offense must be corrected by a trial court even when the sentence has not been challenged on direct appeal and the time for noting an appeal has passed. (Cuyahoga County)

**21-1018. In re T.A.** Whether App.R. 26(B) allows juvenile offenders to reopen their direct appeals based on claims of ineffective assistance of appellate counsel. (Medina County)

**21-998 St. v. Hough** Whether the trial court erred to the prejudice of appellant by not conducting a hearing on his motion for competency evaluation. (Franklin County)

**21-944. St. v. Messenger** Whether self-defense claims are subject to sufficiency-of-evidence review. (Franklin County)

**21-934. In re D.R.** Whether the process provided in R.C. 2152.84 complies with state and federal due process and is fundamentally fair even though juvenile offenders who were 16 or 17 years old at the time of the offense cannot receive an early termination of their sex-offender registration duties at the time their juvenile disposition is otherwise terminated but can receive termination at later times. (State's appeal; Hamilton County)

**21-913 St. v. Hill** Whether the trial court abused its discretion in not allowing the defendant to enter a plea of no contest. (Stark County)

**21-860 St. v. Lloyd** Whether, for purposes of a claim of ineffective assistance of counsel, the presumption of reasonable trial strategy can be rebutted by evidence of trial counsel's persistent misunderstanding of the elements of the offense charged. (Cuyahoga County)

**21-801 St. v. Sanford** Whether the speedy trial time begins at the time of arrest when laboratory samples are taken on the date of the arrest and there is an admission to use or do the laboratory of credibility; (2) A post-conviction petitioner should be entitled to a fair and impartial factfinder when they are granted a hearing, and the appellate court should reverse the judgment if the record demonstrates bias or prejudice. (Muskingum County)

**21-794 St. v. Fuell** (1) Whether juvenile offenders have a state and federal due process right to cross-examine witnesses whose hearsay statements are presented to provide probable cause for mandatory transfer to adult court; (2) Whether, under *Miller v. Alabama, State v. Long*, and *State v. Patrick*, R.C. 2929.02(B)'s mandatory fifteen-years-to-life sentence for murder is unconstitutional as applied to juvenile offenders because it does not permit judicial consideration of youth at sentencing. (Clermont County)

**21-756/769. St. v. Bollar** Whether Ohio's legislature has specifically authorized cumulative punishments for multiple firearm specifications that were committed as part of the same act or transaction under the narrowly tailored, specifically designated circumstances set forth in R.C.2929.14(B)(1)(g), when the underlying felonies attendant to the firearm specifications are merged at sentencing as allied offenses of similar import pursuant to R.C. 2929.14(C)(4). (Stark County)

**21-761 St. v. Schubert** Whether the good-faith exception applies in relation to a search warrant for a cell phone found at a crash scene when the affidavit supporting the warrant only states that the police "may" find evidence of how a crash occurred on the phone, without any actual evidence that the driver was using his phone when the crash occurred. (Licking County)

**21-744 St. v. McNeal** Whether a trial court should grant leave to file a new trial motion pursuant to Crim.R. 33(B) when a defendant has obtained *Brady* material through a post-trial public records request made to a police department, and has demonstrated a reasonable probability that the withholding of that *Brady* material at trial affected the defendant's substantial rights. (Montgomery County)

**21-704 St. v. Hatton** (1) When the State conducts DNA testing in anticipation of connecting a specific individual to the evidentiary source, evidence that excludes a defendant as the contributor is material and disclosure is always required, regardless of when the State learns of the exclusion and regardless of other circumstantial evidence that may seem to exist to support conviction; (2) Where a conviction rests in part on materially false evidence, a trial court commits reversible error in denying a post-conviction petition where a defendant presents the court with newly discovered evidence establishing the falsity of the State's evidence upon which

the conviction was based; (3) Prosecutors are required to disclose DNA test results and analysis under *Brady v. Maryland* when prosecutors learn, even post-trial, that the State's expert testified contrary to her actual findings that appellant could not be excluded as the source of the DNA linking the victim and the rapist. (Pickaway County)

**21-691 St. v. Lewis** Whether a court of appeals lacks authority to make a de novo determination of the credibility of an affidavit filed in a postconviction proceeding under R.C. 2953.21. (Knox County)

**21-622 St. v. Weaver** (1) An appellate court does not owe the same amount of deference to a trial court's post-conviction determination of credibility as it does to a jury's determination of credibility; (2) A post-conviction petitioner should be entitled to a fair and impartial factfinder when they are granted a hearing, and the appellate court should reverse the judgment if the record demonstrates bias or prejudice. (Muskingum County)

#### Coming Up for Oral Argument

**21-51 St. v. Smith** Whether a conviction for rape based on insertion must be supported by evidence that the person accused inserted a body part or object into another. (Highland County) (Argument set for 11-9-21)

**19-1642 St. v. Brinkman** Death Penalty Case (Stark County) (Argument set for 11-10-21)

**20-1503 St. v. Towns** Whether R.C. 102.03(B) permits complaints subject to chapter 102 of the Revised Code to proceed as a criminal complaint without a review of the Ohio Ethics Commission. (State of Ohio/City of Bryan) (Argument set for 11-10-21)

**19-912 St. v. Grevious** Whether R.C. 2953.08(D)(3) is unconstitutional to the extent it bars appeals from sentences for aggravated murder or murder. (Butler County) (Argument set for 12-7-21)

**20-1111 St. v. Hudson** Whether the provision in R.C. 2152.02(C)(3), which allows bypass of juvenile court when the defendant is not taken into custody or apprehended until after age 21, applies when the defendant committed the offenses at age 17, was arrested under a first indictment for those offenses at age 20, but the first indictment was dismissed and the defendant was then prosecuted on a reindictment that was filed at age 22. (Mahoning County) (Argument set for 12-7-21)

**20-1429 St. v. Nicholas** Whether a discretionary bindover decision must depend on affirmative clear and convincing proof of unamenability and whether a finding of unamenability must consider all dispositional options in juvenile court, including possible SYO disposition. (Champaign County) (Argument set for 12-7-21)

**20-1583 St. v. Scott** Whether a trial court should consider the possibility that a DNA profile developed from crime scene evidence could match a profile contained within the CODIS database when assessing outcome determination in relation to requested DNA testing. (Butler County) (Argument set for 12-8-21)

#### Keep an Eye Out for These Cases Awaiting Decision

**20-1392 St. v. Yerkey** Whether victims are constitutionally entitled to restitution for losses incurred throughout the prosecution of the criminal offense, including lost wages from attending hearings. (State's appeal; Columbiana County)

**20-1189/1250 St. v. Brooks** Whether the shift in the burden of proof enacted by H.B. 228 eff. 3-28-19 applies to all subsequent trials regardless of when the offense was committed. (Richland County)

**20-1187 St. v. Campbell** Whether the warrantless search of the probationer based on the consent-to-search condition of community control was constitutional, whether the remedy of exclusion applies to a mere statutory issue, and whether the good-faith exception applies. (State's appeal; Fairfield County)

**20-1266 St. v. Maddox** Whether the constitutionality of the Reagan Tokes Act is ripe for review on direct appeal from sentencing, or only after the defendant has served the minimum term and been subject to extension by ODR. (Lucas County)

**20-797 St. v. Crawford** Whether the crime of having weapon under disability can serve as the predicate offense to involuntary manslaughter. (Cuyahoga County)

**20-599 St. v. Bryant** Whether the trial court erred when it imposed an additional six years on the defendant's sentence after his outburst in court. (Lake County)

**20-495 St. v. Jordan** Whether a warrantless public arrest based on probable cause was invalid because police had time to obtain an arrest warrant first. (Hamilton County)

**20-312 St. v. Montgomery** Whether the defendant was denied his right to a fair trial when the trial court permitted the victim to be introduced to the jury during voir dire as representing the State of Ohio and permitted the victim to sit with the prosecutor at counsel table throughout the trial. (Stark County)

#### Ohio Attorney General Opinions

provided by the Ohio Attorney General's website at <https://www.ohioattorneygeneral.gov/Files/Legal/Opinions>

#### 2021-023

*Requested by: The Supreme Court of Ohio*

Article IV, Section 6(B) of the Ohio Constitution does not prohibit justices of the Ohio Supreme Court from participating in the vaccination incentive program.

**2021-022**

*Requested by: State Board of Education*

The State Board of Education has authority to direct the Department of Education to reexamine the academic content standards and model curriculums to make recommendations to the State Board of Education as necessary to eliminate bias and ensure that racism and the struggle for equality are accurately represented, has authority to require employees of the Department of Education to take implicit bias training, and does not have authority to require that all contractors working with the Department of Education take implicit bias training.

**2021-021**

*Requested by: Union County Prosecuting Attorney*

For purposes of calculating officials' salaries under R.C. Chapter 325, the results of the federal decennial census are effective as to the date on which the State receives the completed tabulations of population from the United States Secretary of Commerce.

**2021-020**

*Requested by: Lake County Prosecuting Attorney*

A board of county commissioners lacks authority to establish a nonprofit convention and visitors' bureau under R.C. Chapter 1702.

**2021-019**

*Requested by: Coshocton County Prosecuting Attorney*

The phrase "local authority," R.C. 4519.41(B), when used in connection with highways in a county, refers to the board of county commissioners.

Speaking of the Ohio Attorney General, AAG Carol O'Brien, Lucas County Prosecutor Julia Bates, and Summit County Prosecutor Sherri Bevan Walsh assembled the Ohio female elected prosecutors mid-October for a luncheon in Columbus. Thanks to all that attended!

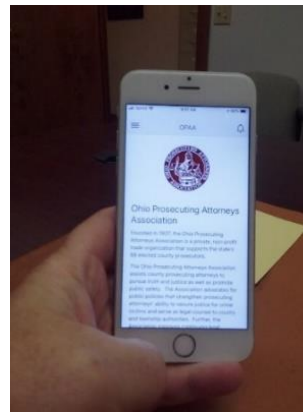


Pictured on previous column left to right – Brenda Rinehart (First Assistant AG) Lauren Knight (Harrison County), Melissa Schiffel (Delaware County), Colleen O'Toole (Ashtabula County), Gwen Howe-Gebers (Henry County), Beth Tischler (Sandusky County), Carol O'Brien (OAG), Sherri Bevan Walsh (Summit County), Cynthia Dungey (Deputy Attorney General), Julia Bates (Lucas County), Katherine Zartman (Williams County), Jane Hanlin (Jefferson County), Judy Wolford (Pickaway County), Eva Yarger (Van Wert County). Those not in attendance – Lindsey Angler (Guernsey County), Anneka Collins (Highland County), Nicole Coil (Washington County)

## OPAA Member Benefits

### Expert Witness and Brief Bank Databases

As reported in the July newsletter, the newest benefits OPAA is bringing to its members is a database of expert witnesses, as well as a new brief bank. Both allows members to search and add items, so please feel free to contribute anything you feel will help others in the county prosecutor offices around the state.



### OPAA app

Be sure to download the free OPAA app available from both the Apple Store and Google Play. We hope you will find the OPAA app useful. Please share this information with everyone in your office.

## Membership Services

### Community Outreach

#### Prosecutor offers PreVenture to address potential at-risk behaviors in youth

Community justice programs within the **Athens County Prosecutor's Office** place the office at the forefront of crime prevention and recidivism reduction by addressing the underlying causes and motivations of criminal activity. The Community Justice programs target drug treatment, family support, diversion programming, and risk reduction.

One program within the office's community justice program is called PreVenture. PreVenture goes so far as to identify potential at-risk behaviors in youth and offer intervention to lead to better decision making.

PreVenture is an evidence-based program developed by Dr. Patricia Conrod that is offered to youth in grades 5-7. The program identifies four personality traits that are at risk for addiction including sensation seeking, impulsiveness, anxiety and sensitivity, and hopelessness. Those identified are able to participate in two 90-minute group classes.

Athens County Prosecutor Keller Blackburn is the first prosecutor in the United States to implement PreVenture in schools, prior implementation has been done on a school-by-school basis.

“Since 2018, the Athens County Prosecutor's Office has collaborated with PreVenture to bring evidence-based drug and alcohol prevention and mental health promotion to Athens County schools. In our experience this is one of the most novel and exciting applications of PreVenture,” said Conrod.

“We have been absolutely thrilled by the Athens County Prosecutor's Office's dedication to investing in preventative mental health services for young people as a way to address the many social and psychological risk factors for substance misuse and combat the drug addiction crisis gripping America,” she added.

PreVenture has already been implemented in several area school districts in and around Athens County.

“This is a targeted, personality-based examination that allows us to identify at-risk students and help them understand their feelings. We work the same concepts with thinking for a change, but this program gives kids the skills they need before ever making it to at-risk situations and decisions with drug misuse,” Blackburn said. “The prosecutor's role is to make the community better, and we try to be proactive in that role.”

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

## **OPAA Training**

Boot Camp – The first OPAA Trial Bootcamp was success! We had 16 assistant prosecutors from 13 counties attend this 3 day event.



The OPAA Fall Training at Crowne Plaza Cleveland on Playhouse Square was also a success with 54 counties (and the AG's office) sending 230 attendees!



The OPAA Juvenile Prosecutor training attracted 50 attendees from 37 counties for the 1 day event. No pictures were taken...apparently the photographer was busy with other tasks!

Thanks to all that make these events possible including speakers, attendees, hotel staff, and of course, the OPAA membership!

Annual Meeting – the 2021 Annual Meeting is slated for December 16<sup>th</sup> and 17<sup>th</sup> at the Hilton Columbus at Easton. The agenda and registration form are available on our website and hard copies have been mailed to all offices.

2022 Spring Training  
April 15th and 16th  
Sheraton Columbus at Capitol Square



**Your 2021 OPAA Officers**



Daniel R. Lutz  
Wayne County  
President



Michael C. O'Malley  
Cuyahoga County  
President-Elect



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