



Judicial Impact Statement

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JUDICIAL IMPACT STATEMENT: CONSECUTIVE SENTENCING

Looking for sponsor

Proposed Title Information

To amend the Revised Code to clarify which prison terms must be served prior to other consecutive prison terms, and to require sentencing courts to indicate the order in which consecutive prison terms are to be served.

Background

When a defendant is sentenced to multiple prison terms, to be served consecutively, there is often no indication as to the order in which those consecutive terms must be served. Thus it is often unclear, when an offender has served several years in prison, how credit should be calculated (i.e. which sentence or part of the sentence was served and which remains to be served). Current case law holds that such ambiguity should be resolved in the defendant's favor. Additionally, once a prison term has been completed, it may not be altered, including adding a term of post-release control, even if the offender is still serving time for the other offenses.

Judicial Impact

As an example, if an offender is sentenced to a five-year term for one offense, and a three-year term for another offense, to be served consecutively, after four years of incarceration, it is not clear which of those terms has been served first: the offender has either served four years of the five-year term, or has *completed* the three-year term and is one year into the five-year term. If the offender then seeks re-sentencing after the fourth year, there is no indication as to whether the judge may impose a term of post-release control for the three-year sentence, as it may have already been completed. In some instances, the Revised Code makes clear that certain prison terms, such as those imposed for gun specifications, are to be served *prior to* and consecutive with the underlying sentence. No such guidance is given for other consecutive sentences.

Recommendations

The General Assembly should provide clarity, or provide judges with the means to make more explicit, the order in which consecutive prison terms should be carried out.

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.