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OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget
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R-134-0082

To: The Honorable Robert McColley
Ohio Senate

From: Dennis M. Papp, Attorney *DMP*

Date: February 12, 2021

Subject: Increase in number of felony offenses since 1974/1976

Introduction

You requested information regarding the increase in the number of felony offenses set forth in Title XXIX of the Revised Code over specified intervals occurring during a specified period of time. The starting point for the calculation of the increase is 1976 for controlled substance offenses in R.C. Chapter 2925, and is 1974 for all offenses located in Title XXIX outside of R.C. Chapter 2925. Those starting points were used because 1976 was the year of enactment of Am. Sub. H.B. 300 of the 111th General Assembly, which was the major legislation that completely revised Ohio's Drug Offense Law, and 1974 was the year of enactment of Am. Sub. H.B. 511 of the 109th General Assembly, which was the major legislation that completely revised Ohio's Criminal Code, other than the Drug Offense Law. The years chosen as the reporting intervals, after the starting point, were 1980, 1990, 2000, 2010, and 2020, with an additional category added that covers changes in the number of felonies that were made before December 31, 2020, and that take effect after December 31, 2020 (most of these changes were made during the "lame duck" session of the 133rd General Assembly; hereafter, this additional category is referred to as the post-2020 category). For the starting points and each reporting interval year other than the post-2020 category, the end of the year is used in determining the number of felonies during the year, and only felonies in existence at the end of the year were counted for the year. The post-2020 category considers only changes that were made before December 31, 2020, and that take effect after December 31, 2020.

To calculate the increase, it was necessary to develop rules for determining the number of felony offenses. The rules used in making the determinations applied fairly narrow, conservative parameters, to avoid having the research bogged down by the endless changes in the elements of felony offenses that each reasonably could be viewed as adding a new felony offense or as subtracting an existing felony offense. As such, the rules likely resulted in an undercounting of what reasonably could be considered as being felonies. The following rules were used in determining the number of felony offenses:

1. If a Revised Code section includes a type of prohibited conduct and has one felony penalty for a violation of the prohibition, that is counted as one felony. If a section includes two or more types of prohibited conduct and has a different felony penalty for violations of each of those types of prohibited conduct, each of those types of prohibited conduct and its penalty is counted as a separate felony.
2. If a section includes a type of prohibited conduct, has a standard felony penalty for a violation of the prohibition, and has a single escalated felony penalty that applies to a violation in one or more specified circumstances (e.g., when the offense is committed against a specified category of victims), the standard felony penalty is counted as one felony and the escalated felony penalty is counted as one felony. The single escalated penalty is counted as one felony even if it applies to violations in multiple specified circumstances (an example of this is the third degree felony penalty for the offense of gross sexual imposition under R.C. 2907.05(C)(1), which applies when the offense involves either of two specified circumstances). If the single escalated penalty subsequently is expanded to apply to violations in additional circumstances, it still counts as one felony (it would not be feasible, without an extensive amount of time and resources, to trace the additions and subtractions over the years).
3. If a section includes a type of prohibited conduct, has a standard misdemeanor penalty for a violation of the prohibition, and has a single escalated felony penalty that applies to a violation in one or more specified circumstances (e.g., when the offense is committed against a specified category of victims), the escalated felony penalty is counted as one felony. The single escalated penalty is counted as one felony even if it applies to violations in multiple specified circumstances (an example of this is the fifth degree felony penalty for the offense of assault under R.C. 2903.13, which applies when the victim is any of a list of different types of victims). If the single escalated penalty subsequently is expanded to apply to violations in additional circumstances, it still counts as one felony (again, it would not be feasible, without an extensive amount of time and resources, to trace the additions and subtractions over the years).
4. If a section includes a type of prohibited conduct, has either a standard felony penalty or a standard misdemeanor penalty for a violation, and has multiple escalated felony penalties of different degrees that apply to a violation of the prohibition in one or more specified circumstances, the rules described above in 2 and 3 apply regarding each of the escalated penalties (an example of this is the multiple felony penalties of different degrees for the offense of assault under R.C. 2903.13).
5. If a section includes several types of prohibited conduct that are included under one offense name and have the same felony penalty, this counts as one felony. If new prohibited conduct subsequently is added under the same name and same penalty, this still counts as one felony (again, it would not be feasible, without an extensive amount of time and resources, to trace the additions and subtractions over the years).
6. If a section includes several types of prohibited conduct that are included under one offense name but they have different felony degrees as a penalty, each different degree of felony counts as a separate felony.

7. If a section includes several types of prohibited conduct that are included under different offense names and the named crimes are felonies, each different named crime counts as a separate felony even if they have the same felony penalty.
8. If a section includes a felony offense and the degree of the offense is changed (such as when, in 1996, Am. Sub. S.B. 2 of the 121st General Assembly revised the felony offense classifications and realigned felony penalties for existing offenses with the new classifications), the change in degree does not count as a change in the number of felonies.
9. If a section includes a felony offense and a change is made to require a mandatory prison term for the offense (without any other changes), the addition of the mandatory term does not count as a change in the number of felonies.
10. If a section located outside of R.C. Title XXIX includes a felony offense and the offense then is moved to Title XXIX, the time when the felony offense was outside of Title XXIX does not count as a felony for purposes of the memorandum, and the first time the felony offense is counted for purposes of the memorandum is when it is moved to Title XXIX.

Changes in all of R.C. Title XXIX

Total number at each reporting interval

Reporting Interval	Number of Felony Offenses in All of R.C. Title XXIX
Post-2020	755
2020	752
2010	667
2000	506
1990	265
1980	161
1976/1974	146

Changes from each reporting interval to the following reporting interval

The changes in the number of felony offenses located in all of R.C. Title XXIX, from each reporting interval to the succeeding reporting intervals:

Changes from 1976/1974:

- To 1980 – increase of 15;
- To 1990 – increase of 119;

- To 2000 – increase of 360;
- To 2010 – increase of 521;
- To 2020 – increase of 606; and
- To post-2020 – increase of 609.

Changes from 1980:

- To 1990 – increase of 104;
- To 2000 – increase of 345;
- To 2010 – increase of 506;
- To 2020 – increase of 591; and
- To post-2020 – increase of 594.

Changes from 1990:

- To 2000 – increase of 241;
- To 2010 – increase of 402;
- To 2020 – increase of 487; and
- To post-2020 – increase of 490.

Changes from 2000:

- To 2010 – increase of 161;
- To 2020 – increase of 246; and
- To post-2020 – increase of 249.

Changes from 2010:

- To 2020 – increase of 85; and
- To post-2020 – increase of 88.

Changes from 2020 to post-2020:

- Increase of 3.

Changes in R.C. Title XXIX, by chapter

The number of felony offenses located in each chapter of R.C. Title XXIX, at each of the reporting intervals, follows.

Chapter 2901 (General Provisions)

No crimes were included in this chapter during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2903 (Homicide, Assault, and Menacing)

Post-2020: 51; 2020: 51; 2010: 46; 2000: 33; 1990: 23; 1980: 10; 1974: 10

Chapter 2905 (Kidnapping, Extortion, and Involuntary Servitude)

Post-2020: 10; 2020: 10; 2010: 7; 2000: 6; 1990: 10; 1980: 7; 1974: 6

Chapter 2907 (Sex Offenses)

Post-2020: 47; 2020: 49; 2010: 40; 2000: 31; 1990: 23; 1980: 16; 1974: 12

Chapter 2909 (Arson, Related Property Damage Offenses, and Terrorism)

Post-2020: 48; 2020: 48; 2010: 50; 2000: 17; 1990: 9; 1980: 5; 1974: 5

Chapter 2911 (Robbery, Burglary, Trespass, and Safecracking)

Post-2020: 11; 2020: 10; 2010: 10; 2000: 10; 1990: 8; 1980: 7; 1974: 7

Chapter 2913 (Theft and Fraud)

Post-2020: 126; 2020: 126; 2010: 118; 2000: 91; 1990: 45; 1980: 13; 1974: 10

Chapter 2915 (Gambling)

Post-2020: 17; 2020: 17; 2010: 17; 2000: 7; 1990: 6; 1980: 8; 1974: 5

Chapter 2917 (Offenses Against the Public Peace)

Post-2020: 23; 2020: 23; 2010: 23; 2000: 22; 1990: 5; 1980: 4; 1974: 4

Chapter 2919 (Offenses Against the Family)

Post-2020: 34; 2020: 32; 2010: 24; 2000: 21; 1990: 9; 1980: 4; 1974: 4

Chapter 2921 (Offenses Against Justice and Public Administration)

Post-2020: 51; 2020: 49; 2010: 45; 2000: 38; 1990: 20; 1980: 11; 1974: 9

Chapter 2923 (Conspiracy, Attempt, and Complicity; Weapons Control; Corrupt Activity)

Post-2020: 73; 2020: 73; 2010: 67; 2000: 49; 1990: 34; 1980: 20; 1974: 19

Chapter 2925 (Drug Offenses)

Post-2020: 197; 2020: 197; 2010: 156; 2000: 163; 1990: 63; 1980: 50; 1976: 50

Chapter 2927 (Miscellaneous Offenses)

Post-2020: 17; 2020: 17; 2010: 14; 2000: 11; 1990: 4; 1980: 3; 1974: 2

Chapters 2929, 2930, & 2931 (Penalties and Sentencing; Victim's Rights; Jurisdiction and Venue)

No crimes were included in these chapters during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2933 (Peace Warrants and Search Warrants)

Post-2020: 3; **2020:** 3; **2010:** 3; **2000:** 3; **1990:** 3; **1980:** none; **1974:** none

Chapter 2935 (Arrest, Citation, and Disposition Alternatives)

No crimes were included in this chapter during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2937 (Preliminary Examination and Bail)

Post-2020: 1; **2020:** 1; **2010:** 1; **2000:** 1; **1990:** 1; **1980:** 1; **1974:** 1

Chapters 2938, 2939, 2941, 2943, 2945, 2947, & 2949 (Trial – Magistrate Courts; Grand Juries; Indictment; Arraignment and Pleas; Trial; Judgment and Sentence; Execution of Sentence)

No crimes were included in these chapters during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2950 (Sex Offender Registration and Notification Law)

Post-2020: 43; **2020:** 43; **2010:** 43; **2000:** 3; **1990:** 2; **1980:** 2; **1974:** 2

Chapter 2951 (Probation)

No crimes were included in this chapter during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2953 (Appeals and Other Postconviction Remedies)

No crimes were included in this chapter during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2961 (Disfranchised Convicts and Habitual Criminals)

No crimes were included in this chapter during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2963 (Extradition)

No crimes were included in this chapter during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapters 2965, 2967, & 2969 (Pardon and Parole; Pardon, Parole, and Probation; Recovery of Offender's Profits Fund and Crime Victims Recovery Fund)

No crimes were included in these chapters during the survey period.

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2971 (Sentencing of Sexually Violent Predators)

No crimes were included in this chapter during the survey period – but special penalties were provided for other crimes (they do not classify the crimes).

Post-2020: none; **2020:** none; **2010:** none; **2000:** none; **1990:** none; **1980:** none; **1974:** none

Chapter 2981 (Forfeiture Law)

Post-2020: 3; **2020:** 3; **2010:** 3; **2000:** none; **1990:** none; **1980:** none; **1974:** none