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S.B. 295*
136th General Assembly

Bill Analysis

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Version: As Reported by House Judiciary

Primary Sponsors: Sens. Manning and Patton

Sarah A. Maki, Attorney

SUMMARY

- Increases in some instances, the time during which a criminal defendant may be held, prior to trial, for purposes of restoring the defendant's competency.
- Tolls or restarts the time limit for restoration of competency under certain circumstances.
- Applies retroactively to any criminal defendant found incompetent to stand trial prior to the effective date of the bill and whose restoration to competency is ongoing or whose case remains pending.
- Declares an emergency.

DETAILED ANALYSIS

The bill modifies timelines for pre-trial treatment and detention of a defendant in a criminal case for purposes of restoring competency.

Background – competency to stand trial

Under continuing law, in a criminal action in a court of common pleas, a county court, or a municipal court, the court, prosecutor, or defense may raise the issue of the defendant's competence to stand trial. If the issue is raised before the trial has commenced, the court is required to hold a hearing on the issue.[1]

If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's

* This analysis was prepared before the report of the Houe Judiciary Committee appeared in the House Journal. Note that the legislative history may be incomplete.

[1] R.C. 2945.37(B), not in the bill.

defense, continuing law requires the court to find the defendant incompetent to stand trial and to enter an order for treatment to restore competency, for continuing evaluation, or for discharge of the defendant, depending on the circumstances of the case and the possibility of restoring the defendant's competency.[2]

Timelines for restoration of competency

If a court finds that the defendant is incompetent to stand trial, the court must determine if there is a substantial probability that the defendant will become competent to stand trial within statutory timelines, if provided with a course of treatment. The bill increases the timeline for competency restoration for the most severe felony offenses, while retaining the timeline for most offenses. The following table provides the timelines for competency restoration as changed by the bill.[3]

Timelines for competency restoration		
Most serious offense charged	**Existing law timeline for competency restoration**	**Timeline for competency restoration under the bill**
Aggravated murder or murder	One year	**Three years**
An offense of violence punishable by death or life imprisonment	One year	**Three years**
Complicity in committing aggravated murder, murder, or an offense of violence punishable by death or life imprisonment if the complicity is a first degree felony (F1) or second degree felony (F2)	One year	**Three years**
Complicity in committing an F1 or F2 felony offense of violence, if the complicity is an F1 or F2 offense	One year	One year
An offense of violence that is a felony of the first degree (F1) or felony of the second degree (F2)	One year	One year
A conspiracy to commit or attempt to commit aggravated murder, murder, an offense of violence punishable by death or life imprisonment, or an F1 or F2 felony offense of violence if the conspiracy or attempt is an F1 or F2	One year	One year

[2] R.C. 2945.38(B).

[3] R.C. 2945.38(C).

Timelines for competency restoration		
Most serious offense charged	**Existing law timeline for competency restoration**	**Timeline for competency restoration under the bill**
A felony other than a felony listed above	Six months	Six months
An offense that is a first degree misdemeanor (M1) or second degree misdemeanor (M2)	60 days	60 days
An M3 or M4, a minor misdemeanor or an unclassified misdemeanor	30 days	30 days

Possibility of restoring competency

The bill also modifies the time horizon that a court must use to determine whether a criminal defendant who is incompetent to stand trial may be held for treatment or evaluation. Existing law generally requires there be a substantial probability of restoration of competency to stand trial for a felony offense within one year if provided treatment. The bill modifies that period to match the maximum period for competency restoration reflected in "**Timelines for restoration of competency**," above. So, under the bill, a court must consider whether it is likely that a defendant, with treatment, can be restored to competency within three years if the most serious offense charged is murder, aggravated murder, an offense punishable by death or life imprisonment, or complicity in any of those offenses if complicity would be a first degree or second degree felony.[4] The bill also updates cross-references to these time periods in various places without changing the timelines.[5]

Tolling or restarting timelines for competency restoration

The bill adds circumstances for tolling of or restarting of the timelines for competency restoration outlined in "**Timelines for restoring competency**," above.

Tolling when the defendant refuses or cannot consent to treatment

If a defendant is found incompetent to stand trial and the treating facility or responsible clinician determines that the defendant lacks capacity to consent to treatment or refuses treatment, including medication, and no petition is filed for involuntary administration of medication under continuing law, the bill tolls the competency restoration period during any period of time the defendant lacks capacity to consent to treatment, including medication.[6] If a petition *is* filed for involuntary administration of medication under continuing law, the competency restoration period is tolled while that application is pending.[7]

[4] R.C. 2945.38(B)(1)(a)(i) and (ii) and (B)(2), by reference to R.C. 2945.38(C).

[5] R.C. 2945.38(B)(1)(a)(iii) and (iv), 2945.38(H), 2945.39(A), and 2945.401(J)(2)(a).

[6] R.C. 2945.38(J).

[7] R.C. 2945.38(K).

For purposes of these tolling provisions, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer or director of the institution, facility, or jail, or the person to which the defendant is committed for treatment, must document the determination that the defendant lacks capacity to consent to treatment or refuses treatment, including medication, and must notify the court within 14 days of that determination.[8]

Restarting timelines when defendant is restored to competency

If a defendant who has been found incompetent to stand trial is subsequently found competent during the course of treatment or continuing evaluation and treatment and is later again found incompetent to stand trial, the time period for treatment specified in "**Timelines for restoration of competency**," above, resets and the court must treat the new period of incompetency as a distinct restoration period.[9]

Retroactive application

The bill's amendments to the restoration of competency timelines and the tolling and reset provisions apply retroactively to all defendants who were found incompetent to stand trial prior to the effective date of the bill and whose restoration to competency is ongoing or whose case remains pending.[10]

Emergency clause

The bill declares an emergency for the immediate preservation of the public peace, health, and safety. The reason for the emergency is that immediate action is necessary to effect the change on existing cases where existing restoration of competency time limitations are waning. Therefore, the bill will go into immediate effect.[11]

HISTORY

Action	Date
Introduced	10-21-25
Reported, S. Judiciary	11-12-25
Passed Senate (31-0)	11-12-25
Reported, H. Judiciary	--

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[8] R.C. 2945.38(L).

[9] R.C. 2945.38(M).

[10] R.C. 2945.38(N).

[11] Section 3.