OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 295
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Sens. Manning and Patton

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio Department of Behavioral Health (ODBH) could realize an increase in state costs related to the provision extending competency restoration periods. The increase will depend on the number of individuals impacted. The per-diem cost for treatment in a regional psychiatric hospital is about $943 per day.
- Courts of common pleas may see a slight increase in the number of competency restoration hearings and assessment costs related to an extended restoration period resulting in a minimal increase in related costs. The courts will likely be able to incorporate these additional hearings using currently available resources.
- The bill declares an emergency.

Detailed Analysis

The bill modifies the time limitation in which a defendant can be restored to competency to stand trial after being found incompetent and defines when the timelines may be tolled. The bill explicitly extends these changes retroactively to all defendants who were found incompetent to stand trial prior to the effective date of this amendment and whose restoration to competency is ongoing or whose cases remain pending. The bill is likely to extend the timeline for certain criminal trials and to continue a number of cases which may have been dismissed due to the defendant's incompetence to stand trial under shorter time limitations. The bill declares an emergency and will go into immediate effect.

Timelines for restoring competency

Under current law, if a defendant has been charged with a felony offense or a misdemeanor offense of violence and found to be incompetent, and the court determines that

the defendant will become competent within one year, the court is required to order treatment for a period of up to one year depending on the level of offense.

Under the bill, the court is permitted to require treatment to restore competency for up to three years for a charge of aggravated murder, murder, an offense of violence for which death or life imprisonment may be imposed, and complicity in those offenses if the court determines that the defendant will become competent within that three-year period. Other time limitations are unchanged.

Tolling or restarting timelines for competency restoration

The bill specifies that the time permitted for treatment to restore competency is tolled during any period of time the defendant lacks capacity to consent to treatment or refuses treatment, including any time during which a petition for authorization for the involuntary administration of medication by a clinical officer is pending. The bill requires 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 to (1) document the determination that the defendant lacks capacity to consent to treatment or refuses treatment, and (2) notify the court within 14 days of that determination.

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 resets, and the court is required to treat the new period of incompetency as a distinct restoration period subject to the time limitations above.

Fiscal effect

Ohio Department of Behavioral Health

The Ohio Department of Behavioral Health (ODBH) operates six regional psychiatric hospitals that provide inpatient psychiatric care to Ohioans. The majority of patients are "forensic" patients, which means that they are involved in the criminal justice system. This includes those ordered for competency restoration and for treatment after a not-guilty-by-reason-of-insanity acquittal. Additionally, ODBH also has established outpatient competency restoration programs for individuals charged with nonviolent misdemeanors. Currently, if someone is not restored to competency within the allotted timeframe, the court retains jurisdiction over the individual for the maximum amount of time they could have faced on the most serious charge. If the bill resulted in any longer lengths of stays for competency restorations, ODBH would realize an increase in costs to provide this treatment. Since the bill impacts the most severe felony cases, LBO assumes that the individual would receive treatment in a regional psychiatric hospital setting. In FY 2025, about 2,400 competency evaluations were ordered for felony-level charges. Of these, about 650 were admitted for treatment in a regional psychiatric hospital and about 360 were for high-level felony charges. The average length of treatment for high-level felony charges is about 141 days. ODBH estimates that about 10% of high-level felony admissions are not restored to competency within one year. The average per-diem rate for treatment in a regional psychiatric hospital is $943.

Courts of common pleas

The bill may impact county courts of common pleas as some number of competency restoration proceedings will likely experience longer timelines due to additional assessments and hearings. Any additional costs for the courts are likely to be minimal, though. These courts will likely be able to incorporate a relatively small number of additional hearings into their day-to-day business using currently available resources. Anecdotal information from several judges indicate that most competency matters are resolved within the current one-year period and very few are expected to require longer.

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