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Final Analysis

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Primary Sponsors: Sens. Manning and Patton

Effective date: Emergency: February 20, 2026

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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 February 20, 2026, and whose restoration to competency is ongoing or whose case remains pending.
- Declares an emergency.

DETAILED ANALYSIS

The act 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

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 defense, the court must find the defendant incompetent to stand trial and to enter an order for

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

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 act 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 act.[3]

Timelines for competency restoration

Most serious offense charged	Prior timeline for competency restoration	Timeline for competency restoration under the act
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 an F1 or 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
A felony other than a felony listed above	Six months	Six months

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

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

Most serious offense charged	Prior timeline for competency restoration	Timeline for competency restoration under the act
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 act 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. Former law generally required there be a substantial probability of restoration of competency to stand trial for a felony offense within one year if provided treatment. The act modifies that period to match the maximum period for competency restoration reflected in "**Timelines for restoration of competency**," above. So, under the act, 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 act also updates cross references to these time periods in various places without changing the timelines.[5]

Tolling or restarting timelines for competency restoration

The act 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, the act 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, the act requires the competency restoration period to be tolled while that application is pending.[7]

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 (1) document the determination that the defendant lacks capacity to consent to treatment or

[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).

refuses treatment, including medication, and (2) 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 act'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 February 20, 2026, and whose restoration to competency is ongoing or whose case remains pending.[10]

Emergency clause

The act 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 cases existing on February 20, 2026, for which restoration of competency time limitations are waning. Therefore, the act goes 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	02-18-26
Passed House (87-2)	02-18-26
Senate concurred in House amendments (30-0)	02-18-26

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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.