



Ohio Legislative Service Commission

Bill Analysis

David M. Gold

H.B. 123*

131st General Assembly
(As Reported by H. Judiciary)

Reps. G. Johnson and Cupp, Butler, Rogers, Stinziano, S. O'Brien, Rezabek

BILL SUMMARY

- Increases from three to seven the minimum number of days before trial by which a criminal defendant must notify the prosecutor of an intent to claim an alibi, in conformance with the Criminal Rules.
- Authorizes, but does not require, a sentencing court to dispense with a presentence investigation report before placing a felony offender under a community control sanction if the defendant and prosecutor agree to waive the report.
- Requests the Supreme Court to modify the Rules of Criminal Procedure to conform to the bill's provisions on presentence investigation reports.

CONTENT AND OPERATION

Notification of alibi defense

The bill increases from three to seven the number of days before trial by which a criminal defendant must file and serve on the prosecuting attorney a written notice of an intent to establish an alibi. This change conforms the statute to the Rules of Criminal Procedure.¹ Under continuing law, the notice must include specific information as to the place at which the defendant claims to have been at the time of the alleged offense. If

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ Crim. R. 12.1.

the defendant fails to file a notice, the court may exclude evidence offered by the defendant for the purpose of proving the alibi.²

Waiver of presentence investigation report

The bill allows a waiver of the presentence investigation report normally required before a court may sentence a felony offender to community control. Under existing law, a court may not place a felony offender under a community control sanction until it has considered a written presentence investigation report. The bill authorizes, but does not require, the court to dispense with the report if the defendant and the prosecuting attorney who is handling the case agree to waive the report.³

The bill also requests the Supreme Court to modify Criminal Rule 32.2 to allow waiver of the presentence report and imposition of a community control sanction as provided in the bill.

HISTORY

| ACTION | DATE |
|------------------------|-------------|
| Introduced | 03-17-15 |
| Reported, H. Judiciary | --- |

H0123-RH-131.docx/ejs

² R.C. 2945.58.

³ R.C. 2951.03(A)(1).

