



OHIO LEGISLATIVE SERVICE COMMISSION

Sub. Bill Comparative Synopsis

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Sub. H.B. 81

132nd General Assembly
(H. Criminal Justice)

This table summarizes how the latest substitute version of H.B. 81 differs from the As Introduced version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (As Introduced)	Sub. Version (L_132_0191-4)
<p>Criteria for serious mental illness</p>	<p>For purposes of the defense against imposing the death penalty for aggravated murder, provides that a person has a "serious mental illness" (SMI) if both of the following apply (<i>R.C. 2929.025(A)(1)</i>):</p> <p>(1) The person has been diagnosed with one or more specified SMI conditions;</p> <p>(2) At the time of the alleged aggravated murder, the SMI condition or conditions with which the person has been diagnosed significantly impaired the person's capacity to do one or more of the following:</p> <p>(a) Exercise rational judgment in relation to the person's conduct;</p>	<p>Modifies the second criteria for finding that a person has a "serious mental illness" to require that the SMI condition or conditions significantly impaired the person's capacity to exercise rational judgment in relation to the person's conduct with respect to either of the following (<i>R.C. 2929.025(A)(1)(b)</i>):</p> <p>(1) Conforming the person's conduct to the requirements of law; or</p> <p>(2) Appreciating the nature, consequences, or wrongfulness of the person's conduct.</p>

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	<p>(b) Conform the person's conduct to the requirements of law; or</p> <p>(c) Appreciate the nature, consequences, or wrongfulness of the person's conduct.</p>	
Burden of proof	<p>If a capital defendant submits <i>prima facie</i> evidence that the defendant has been diagnosed with an SMI condition and that the condition existed at the time of the alleged offense, provides a rebuttable presumption that the condition significantly impaired the defendant's capacity at the time of the alleged offense (R.C. 2929.025(B) and (C)).</p> <p>Shifts the burden of proof to the prosecution to prove, by a preponderance of the evidence, that the diagnosis of the SMI condition was erroneous or that the condition, if present, did not significantly impair the defendant's capacity at the time of the alleged offense (R.C. 2929.025(D) and (E)).</p>	<p>Eliminates the rebuttable presumption in favor of the defendant and requires the defendant to prove, by a preponderance of the evidence, that the defendant was diagnosed with one or more of the SMI conditions and that the SMI condition or conditions significantly impaired the person's capacity at the time of the alleged offense (R.C. 2929.025(C), (D), and (E)).</p>
Pretrial hearing and jury question	<p>If a capital defendant intends to raise the matter of the defendant's SMI, requires that the defendant first raise the matter at a pretrial hearing (R.C. 2929.025(C)).</p> <p>Requires one of the following outcomes if the court at the pretrial hearing finds that the prosecution has proved, by a preponderance of the evidence, that the diagnosis was erroneous or that the condition did not significantly impair the person's capacity at the time of the alleged offense (R.C. 2929.025(E)(2)):</p> <p>(1) If the aggravated murder charge is not to be</p>	<p>Removes the possibility of presenting the matter of the defendant's SMI to the jury if the court finds after the pretrial hearing that the defendant has failed to prove that the defendant has been diagnosed with one or more of the SMI conditions and that the condition or conditions diagnosed significantly impaired the defendant's capacity at the time of the alleged offense (R.C. 2929.025(E)).</p>

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	<p>tried by a jury, the court must issue a finding that the defendant is not ineligible for a death sentence due to SMI;</p> <p>(2) If the charge is to be tried by a jury, the defendant may request that the matter of SMI be submitted to the jury at trial, and the jury may consider the matter according to the same standard as in the pretrial hearing.</p>	
<p>Effect of a judgment invalidating any part of the bill</p>	<p>No provision.</p>	<p>Declares that if any provision amended or enacted by the bill is determined to be unconstitutional or otherwise invalid in a final judgment by a court of last resort, the remainder of the bill's enactments and amendments is void (<i>Section 3</i>).</p>

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