



**Written Testimony: Senate Bill 2**  
**Ohio House Criminal Justice Committee**  
**Megan Testa, MD, President**  
**Ohio Psychiatric Physicians Association**  
**March 11, 2021**

Thank you for the opportunity today to testify in support of Senate Bill 2, a bill which, if enacted, would make needed changes to current procedures for competency evaluation and restoration of misdemeanor defendants with mental illness.

My name is Megan Testa, M.D. and I am a physician practicing forensic psychiatry in Cleveland, Ohio. I currently work in community re-entry, treating individuals with serious mental illness who are under the jurisdiction of the criminal justice system. I provide consultation for the State of Ohio and the City of Cleveland on issues such as Competence to Stand Trial, Criminal Insanity, Violence Risk Assessment and Conditional Release, at the state hospital and the municipal court.

I am providing testimony on behalf of the Ohio Psychiatric Physicians Association (OPPA), a statewide medical specialty organization whose more than 1,000 physician members specialize in the diagnosis, treatment and prevention of mental illness and substance use disorders.

Senate Bill 2 is an important piece of legislation that brings a treatment-focus with more careful consideration of the least restrictive alternative for restoration of misdemeanor defendants who are unable to understand legal proceedings or unable to participate in their defense due to a present mental condition. The bill would require professionals evaluating competence to stand trial to take into consideration the housing needs and availability of mental health treatment in the community when making recommendations about what the next steps should be for an individual that the Court finds to be Incompetent to Stand Trial on misdemeanor charges.

When conducting an evaluation of a defendant's Competence to Stand Trial, an evaluator must examine a defendant and make several determinations:

- 1) First, they determine through interview, record review, and mental status examination, whether the defendant has a present mental condition;
- 2) Second, they determine whether the individual can understand the nature and objectives of the proceedings they face.
- 3) Third, they determine whether the individual can assist in their defense.

If the evaluator determines that the defendant understands their legal proceedings and can work with counsel to resolve their charges, the person will proceed through the legal process.

If an evaluator determines that the defendant can not understand their legal proceedings or can not assist in their defense, or both, due to a present mental condition, then they will make the Court aware.

Examples include: a person who does not appreciate the practical implications of their charges because of a delusional belief system; a person with paranoid delusions about their Attorney; or a person with severe depression who lacks interest or motivation to engage in legal proceedings.

The Court will find defendants like this Incompetent to Stand Trial. The next step for the evaluator will be to advise the Court whether there is a substantial probability that the defendant can be restored to competency through education and/or treatment of their mental condition within the 30-60 day time frame permitted by statute, and make a recommendation for where restoration should take place.

Currently many misdemeanor defendants who are found Incompetent to Stand Trial are sent to state psychiatric hospitals. To be clear, misdemeanor defendants are often quite ill, particularly those who come into contact with police due to homelessness and disruptive community behavior. For individuals with severe, decompensated illness who lack connection with community mental health services, and those who are at risk for violence in the community, court-ordered hospitalization is greatly needed. However, for many individuals, specifically those who are already linked with community treatment providers and are not dangerous, admission to a state psychiatric hospital can unnecessarily disrupt their lives, disrupt relationships with community mental health providers, and decrease availability of state hospital beds for people who are truly in need of this level of intensive psychiatric care.

Senate Bill 2 brings attention to the importance of determining the least restrictive environment for competency restoration of misdemeanor defendants. It requires examiners to carefully consider housing needs and availability of mental health treatment in the community when making recommendations for how courts should proceed with restoration of competence. It makes clear the importance of careful consideration of the needs of a person with mental illness who requires stabilization of their mental illness in order to proceed in court. Senate Bill 2 does not prevent misdemeanor defendants who require a state hospital level of care from receiving it. It emphasizes the alternative path of linking individuals, for whom it is safe, with community providers for restoration, so that a person who simply has run out of medications or would benefit from a change of medications is not taking up a bed in a state hospital for 30-60 days and being subjected to unintended consequences such as job loss, loss of housing, and further disruption of outpatient care.

In addition to making needed changes to current procedures for competency evaluation and restoration of misdemeanor defendants with mental illness, SB 2 also enters Ohio into the multijurisdictional psychology compact, known as PSYPACT, which will allow for increased utilization of the practice of telepsychology and temporary in-person psychology across state boundaries for participating states. This will increase access to psychological services for underserved patients in a safe, versatile, and affordable manner, all while maintaining Ohio's standards of care and regulation of the delivery of psychological health services.

Thank you for the opportunity to testify on this important bill. The OPPA thanks Senator Gavarone for advancing these changes to competency evaluation and restoration procedures that bring opportunity for improved mental health outcomes, community stability, and reduced recidivism for individuals with mental illness, and increases state psychiatric bed availability for those in need.