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Thank you Chairman Thomas, Vice-Chair Swearingen, and Ranking Member Synenberg for the opportunity to address the House Judiciary Committee this morning and for the opportunity to provide testimony supporting Senate Bill 295. The tragic murders of Cleveland Police Officer Jamieson Ritter and Beatrice Porter revealed a dangerous loophole in Ohio's competency restoration process. This bill closes that gap by preventing violent offenders from exploiting the system by refusing medication. I want to thank Senators Manning and Patton for sponsoring this legislation and for standing up for Ohio's victims of violent crimes by leading the efforts to fix this issue.

During the pendency of *State v. Delawnte Hardy*, a severe gap in Ohio law was revealed. Delawnte Hardy was found to be not competent to stand trial in September of 2024, but both of the doctors who reached that conclusion also found that Hardy was likely to be restored to competency through a course of treatment. Both doctors agreed that Hardy's treatment must include psychotropic medications. And both doctors believed that, if Hardy took his medications, he could be restored within the one-year timeframe required by Ohio law. These doctors included both the Court Psychiatric Clinic doctor as well as Hardy's own independent doctor.

After receiving the doctors' reports, the state, the defense, and the court agreed to the recommended course of treatment and Hardy was sent to Twin Valley (now Central Ohio Behavioral Health) for treatment. Hardy arrived at COBH in October of 2024 and within weeks he refused to take the required medications. Hardy's refusal was contrary to the stipulated treatment plan that his own lawyers agreed to on his behalf. And his refusal was contrary the order that the court approved before sending Hardy to COBH. For months, COBH did not disclose to the court or counsel that Hardy was refusing to take the medications. It wasn't until March of 2025, when the court scheduled a hearing, that the court and parties to the case learned Hardy had been noncompliant and had refused medications. To be fair, Ohio law did not require the hospital to inform the court of Hardy's refusals. And, unfortunately, Ohio law did require those wasted weeks and months to be charged against the state. The trial court at a hearing tolled the restoration period for a limited amount of time.

This case has laid bare the huge loophole in the statute. A criminal defendant who wants to beat his or her case can delay the competency process by refusing to take medication and, if the hospital is asleep at the switch or worse and doesn't inform the court, then all of that time might never be given back to the state in the criminal case for the one year the state has to restore the competency.

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The bottom line is this, currently the law puts criminal defendants in the driver's seat - if they decide to refuse to participate in the process, then that refusal can allow them to run out the one-year clock without repercussions under the law. Victims and their families deserve better - they deserve more time for competency restoration and for there to be penalties if a defendant refuses to participate.

Under current Ohio law, courts are limited to a one-year restoration period for most felony offenses, regardless of the seriousness of the crime or the complexity of the defendant's mental condition. This forces courts to dismiss serious charges against defendants who remain incompetent, even when restoration is still possible. Then the only possible outcome becomes a civil commitment through the Probate Court, with zero accountability, criminal culpability, or finality in the criminal case. Even in instances in which the criminal court retains jurisdiction under R.C. 2945.401, the periodic reporting in the civil commitment is every two years. This hardly promotes swift and timely adjudication of the criminal prosecution.

Competency can ebb and flow over periods of time. Not everyone follows their course of treatment. Senate Bill 295 recognizes this and offers a more balanced and responsible approach.

The proposed legislation extends the restoration period to five years solely for the gravest offenses: aggravated murder, murder, and violent crimes punishable by life in prison or death. This duration is not only reasonable given the severity of these charges and the complex mental health conditions they often implicate, but it is also well within the mainstream of comparable state practice.

Multiple jurisdictions authorize restoration periods meeting or exceeding five years. Nevada permits up to ten years, with extensions to fifteen years for murder.¹ North Carolina's timeline is also ten years.² Maryland establishes a five-year maximum for felonies and violent crimes.³ Florida expressly provides for "five continuous, uninterrupted years."⁴

Other states adopt hybrid approaches linking restoration duration to potential sentence severity—a recognition that constitutional "reasonableness" under *Jackson* must account for the State's legitimate interest in adjudicating serious offenses. Massachusetts allows for

¹ Nev. Rev. Stat. § 178.460

² N.C. Gen. Stat. § 15A-1008

³ Md. Crim. Proc. § 3-107

⁴ Fla. Stat. § 916.145

half of the maximum sentence for the most severe charge.⁵ Pennsylvania authorizes the lesser of ten years or maximum sentence exposure, with no durational limit for murder charges. The only question is whether there is a substantial probability of restoration in the foreseeable future.⁶ New York permits commitment for two-thirds of the maximum sentence.⁷ Rhode Island is also two-thirds and allows twenty years where life imprisonment is possible.⁸ Both Virginia and Louisiana establish five-year periods measured from arrest.⁹ Minnesota gives a base restoration of three years.¹⁰

The proposed five-year maximum thus represents neither an outlier nor constitutional overreach. It reflects a measured legislative judgment, and includes appropriate guardrails by retaining existing provisions such as the six-month interval reporting

The bill also codifies that treatment pauses the restoration clock when a defendant refuses or lacks the capacity to consent to treatment. It codifies tolling events that courts have approved.¹¹ The bill also requires timely communication from the provider to the prosecutors. And it applies retroactively to pending cases including when the restoration period has not yet expired.

Senate Bill 295 is a public safety measure. It gives courts the time and tools to pursue justice in serious cases while ensuring defendants receive appropriate care. And most importantly, it protects victims' rights to justice by ensuring finality and resolution of criminal cases.

We are now on the eve of the expiration of the one-year restoration period. And we take the opportunity to address some points raised by opponents during the Third Hearing before the Senate Judiciary Committee. Opponents cite data and claim that the vast majority of individuals can be restored within a year.

Opponents ground their critique in selective citation. They reference the median restoration time of less than one year documented in Comprehensive Update and Evaluation of State and Federal Statutes on Competency to Stand Trial (2024), at 238, while omitting the

⁵ Mass. Gen. Laws ch. 123 §§ 8B, 15 & 16.

⁶ 50 Pa. Stat. §7403

⁷ N.Y. Crim. Proc. Laws § 730.50

⁸ R.I. Gen. Laws §40.1-5.3-3

⁹ Va. Code Ann. §§ 19.2-169.2, 19.2-169.3; La. Code Crim. Proc. Ann. art. 648

¹⁰ Minn. R. Crim. P. 20.01

¹¹ *State v. Swanigan*, 2025-Ohio-4648 (1st Dist.), *State v. Barker*, 2007-Ohio-4612 (2nd Dist.).

study's crucial finding: restoration times ranged from 42.7 to 1,108 days—over three years. This range, not merely the median, reflects clinical reality and demonstrates that complex cases legitimately require extended intervention.

Opponents further contend the proposed legislation is constitutionally suspect under *Jackson v. Indiana*, 406 U.S. 715 (1972). This comparison fails on both law and fact. Jackson condemned the indefinite civil commitment of Theon Jackson—a deaf, mute, and illiterate man incapable of communication—for two robberies totaling nine dollars in value, with no prospect of ever attaining trial competence.

The proposed legislation bears no resemblance to Jackson's constitutional infirmity. It establishes a definite five-year maximum, applies exclusively to the most serious offenses—aggravated murder, murder, and crimes carrying potential life imprisonment—and mandates judicial review every six months. Where Jackson prohibited indefinite detention without meaningful review, this legislation imposes finite limits with rigorous oversight, targeting only cases where the State's interest in adjudication is most compelling. And it's not only the State's interest in an adjudication but also the victims' rights “to proceedings free from unreasonable delay and a prompt conclusion of the case.” Article I, Section 10a, Ohio Constitution.

We encourage the House Judiciary Committee to act favorably in passing this legislation quickly and to act promptly on Senate Bill 295.