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# OHIO LEGISLATIVE SERVICE COMMISSION

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<p><b>H.B. 622</b> <b>136<sup>th</sup> General Assembly</b></p>	<p><b>Bill Analysis</b></p>
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**Version:** As Introduced

**Primary Sponsors:** Reps. Williams and Robb Blasdel

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## SUMMARY

- If a trial court finds a defendant incompetent to stand trial for specified offenses and in specified circumstances, requires the prosecutor to file an affidavit in the probate court for the civil commitment of the defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.
- Requires the court to detain the defendant for ten days pending civil commitment.
- Requires the court to send to the probate court copies of all written reports of the defendant’s mental condition.
- If the most serious offense with which the defendant is charged is a misdemeanor, increases the time period that the defendant is required to undergo treatment to six months.
- Modifies the definition of a “person with a mental illness subject to court order” for purposes of the Competency to Stand Trial Law.
- Names the bill’s provisions the Health and Community Wellness Act.
- Makes an appropriation.

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## DETAILED ANALYSIS

### Competency to stand trial

#### Prosecutor required to file for civil commitment of defendant

##### Felony offense or misdemeanor offense of violence without recommendations

The bill requires the prosecutor to file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order if all of the follow apply:<sup>1</sup> (1) the defendant has been charged with a felony offense or a misdemeanor offense of violence, (2) the prosecutor has not recommended certain procedures, and (3) the court finds that the defendant is incompetent to stand trial, and there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with the a course of treatment.<sup>2</sup> The court may detain the defendant for ten days pending civil commitment and must send to the probate court copies of all written reports of the defendant’s mental condition.<sup>3</sup>

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<sup>1</sup> R.C. 2945.38(B)(1)(a)(i)(II).

<sup>2</sup> R.C. 2945.38(B)(1)(a)(i).

<sup>3</sup> R.C. 2945.38(B)(1)(a)(i)(II).

Under continuing law, if the defendant meets the above criteria, the court must order the defendant to undergo treatment.<sup>4</sup>

### **Felony offense**

The bill requires the prosecutor to file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order if all of the follow apply:<sup>5</sup> (1) the defendant has been charged with a felony offense, and (2) the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.<sup>6</sup> The court may detain the defendant for ten days pending civil commitment and must send to the probate court copies of all written reports of the defendant's mental condition.<sup>7</sup>

Under continuing law, if the defendant meets the above criteria, the court must order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.<sup>8</sup>

### **Misdemeanor offense of violence**

The bill requires the prosecutor to file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order if all of the follow apply: (1) the defendant has not been charged with a felony but has been charged with a misdemeanor offense of violence, and (2) the court finds that the defendant is incompetent to stand trial, but the court is unable at the time to determine whether there is substantial probability that the defendant will become competent to stand trial within the time period for treatment described below. The court may detain the defendant for ten days pending civil commitment and must send to the probate court copies of all written reports of the defendant's mental condition.<sup>9</sup>

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<sup>4</sup> R.C. 2945.38(B)(1)(a)(i)(I).

<sup>5</sup> R.C. 2945.38(B)(1)(a)(ii)(II).

<sup>6</sup> R.C. 2945.38(B)(1)(a)(ii).

<sup>7</sup> R.C. 2945.38(B)(1)(a)(ii)(II).

<sup>8</sup> R.C. 2945.38(B)(1)(a)(ii)(I).

<sup>9</sup> R.C. 2945.38(B)(1)(a)(iii).

## **Misdemeanor offense of violence with recommendation**

If (1) the defendant has been charged with a misdemeanor offense of violence, (2) the prosecutor has recommended certain procedures, and (3) the trial court finds the defendant is incompetent to stand trial, the following provisions apply.<sup>10</sup>

### ***Dismiss the charges***

Under current law, the court must dismiss the charges pending against the defendant. Upon dismissal of the charges, the trial court must discharge the defendant unless the court or prosecutor files affidavit in the probate court for the civil commitment of a defendant alleging that the person is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order as described below.<sup>11</sup>

The bill allows the court or the prosecutor to file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order if the defendant has not been charged with a felony offense or a misdemeanor offense of violence. If the court files an affidavit, the court cannot discharge the defendant. Under current law, the court or the prosecutor could file the affidavit regardless of whether the defendant had been charged with a felony offense or a misdemeanor offense of violence.<sup>12</sup>

The bill requires the prosecutor to file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order if the defendant has been charged with a misdemeanor offense of violence and the prosecutor has recommended certain procedures. If the court files an affidavit, the court cannot discharge the defendant.

In either of the above circumstances, the bill allows the court to detain the defendant for ten days pending civil commitment. Under current law, the court may detain the defendant for ten days pending a hearing in the probate court. Under continuing law, the court must send to the probate court copies of all written reports of the defendant's mental condition.<sup>13</sup>

### ***Competency restoration treatment***

Under continuing law, the court may order the defendant to undergo outpatient competency restoration treatment at a facility operated or certified by the Department of Behavioral Health as being qualified to treat mental illness, at a public or community mental health facility, a jail that employs or contracts with certain individuals or entities to provide

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<sup>10</sup> R.C. 2945.38(B)(1)(a)(v).

<sup>11</sup> R.C. 2945.38(B)(1)(a)(v)(l).

<sup>12</sup> R.C. 2945.38(B)(1)(a)(v)(l).

<sup>13</sup> R.C. 2945.38(B)(1)(a)(v)(l).

treatment or continuing evaluation at a jail, or in the care of a psychiatrist or other mental health professional.<sup>14</sup>

### ***Continuing evaluation and treatment***

The bill allows the court to order continuing evaluation and treatment for a time period not to exceed the maximum time period for treatment described below if either of the following applies:<sup>15</sup>

- The defendant has previously been found by a court to be incompetent to stand trial and that, even if the defendant was or had been provided with a course of treatment, there was not a substantial probability that the defendant would have become competent to stand trial.
- The defendant has previously been found by a court to be incompetent to stand trial and that there was a substantial probability that the defendant would have been competent to stand trial if the defendant was or had been provided with a course of treatment, but at the end of the time period for treatment described below, the defendant was found incompetent to stand trial.

### **Time periods for treatment**

Under current law, a defendant is not required to undergo treatment, including any continuing evaluation and treatment, for longer than whichever of the following time periods is applicable:

- One year, if the most serious offense with which the defendant is charged is one of the following offenses:<sup>16</sup>
  - Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment is imposed;
  - An offense of violence that is a first or second degree felony;
  - A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described above if the conspiracy, attempt, or complicity is a first or second degree felony.
- Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described above;
- Sixty days, if the most serious offense with which the defendant is charged is a first or second degree misdemeanor;<sup>17</sup>

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<sup>14</sup> R.C. 2945.38(B)(1)(a)(v)(II).

<sup>15</sup> R.C. 2945.38(B)(1)(a)(v)(III).

<sup>16</sup> R.C. 2945.38(C)(1).

<sup>17</sup> R.C. 2945.38(C)(3).

- Thirty days, if the most serious offense with which the defendant is charged is a third or fourth degree misdemeanor, a minor misdemeanor, or an unclassified misdemeanor.<sup>18</sup>

The bill modifies the last three bullet points to provide that a defendant is not required to undergo treatment for longer than six months if the most serious offense with which the defendant is charged is a misdemeanor.<sup>19</sup>

## **Exceptions to discharge of the defendant**

### **Incompetent to stand trial within one year**

If the court finds that the defendant is incompetent to stand trial, and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court is required to order the discharge of the defendant. The bill modifies the exception to this provision as follows:<sup>20</sup>

- Under continuing law, the court or prosecutor may file a motion for the court to seek or retain jurisdiction over the defendant.<sup>21</sup>
- Under the bill, if the defendant has not been charged with a felony offense or a misdemeanor offense of violence, the court or prosecutor may file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order (under current law, the prosecutor could file the affidavit regardless of whether the defendant had been charged with a felony offense or a misdemeanor offense of violence).<sup>22</sup>
- Under the bill, if the defendant has been charged with a felony offense or a misdemeanor offense of violence, the prosecutor must file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.<sup>23</sup>
- Under the bill, if an affidavit is filed in the probate court under the last two bullet points, the court may detain the defendant for ten days pending civil commitment. Under continuing law, the court must send to the probate court copies of all written reports of the defendant's mental condition.<sup>24</sup>

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<sup>18</sup> R.C. 2945.38(C)(4).

<sup>19</sup> R.C. 2945.38(C)(2).

<sup>20</sup> R.C. 2945.38(B)(2).

<sup>21</sup> R.C. 2945.38(B)(2)(a).

<sup>22</sup> R.C. 2945.38(B)(2)(b).

<sup>23</sup> R.C. 2945.38(B)(2)(c).

<sup>24</sup> R.C. 2945.38(B)(2)(d).

- Under continuing law, the court may issue a temporary order of detention that a probate court may issue to remain in effect until the probate cause or initial hearing in the probate court.<sup>25</sup>

If the court files a motion or affidavit as described above, the court must not discharge the defendant.<sup>26</sup>

### **Incompetent to stand trial after defendant is committed**

Under current law, if a defendant is committed, within ten days after the treating physician of the defendant or the examiner of the defendant advises that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment within a specified time frame, the court must conduct another hearing to determine whether the defendant is competent to stand trial.<sup>27</sup>

If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a specified felony, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time period for treatment described above has expired, the court must dismiss the indictment, information, or complaint against the defendant and must discharge the defendant. The bill modifies the exception to this provision as follows:<sup>28</sup>

- Under the bill, if a defendant has not been charged with a felony offense or a misdemeanor offense of violence, the court or prosecutor may file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order (under current law, the prosecutor could file the affidavit regardless of whether the defendant had been charged with a felony offense or a misdemeanor offense of violence).<sup>29</sup>
- Under the bill, if the defendant has been charged with a felony offense or a misdemeanor offense of violence, the prosecutor must file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.<sup>30</sup>

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<sup>25</sup> R.C. 2945.38(B)(2)(e).

<sup>26</sup> R.C. 2945.38(B)(2).

<sup>27</sup> R.C. 2945.38(H).

<sup>28</sup> R.C. 2945.38(H)(4)(a).

<sup>29</sup> R.C. 2945.38(H)(4)(a)(i).

<sup>30</sup> R.C. 2945.38(H)(4)(a)(ii).

- Under continuing law, if an affidavit is filed in the probate court under the last two bullet points, the trial court may detain the defendant for ten days pending civil commitment and must send to the probate court copies of all written reports of the defendant's mental condition.<sup>31</sup>

If the court files a motion or affidavit as described above, the court must not discharge the defendant.<sup>32</sup>

### **Incompetent to stand trial after the maximum time period for treatment**

After the maximum time period for treatment described above or after the court finds that there is not a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, the court is required to do one of the following listed below as modified by the bill.<sup>33</sup> Under current law, the following listed below only apply to offenses with a maximum time period for treatment of one year.<sup>34</sup>

- Under the bill, if the defendant is not charged with a felony offense or a misdemeanor offense of violence, the court or the prosecutor may file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order (under current law, the prosecutor could file the affidavit regardless of whether the defendant had been charged with a felony offense or a misdemeanor offense of violence).<sup>35</sup>
- Under the bill, if the defendant is charged with a felony offense or a misdemeanor offense of violence, the prosecutor must file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.<sup>36</sup>
- Under the bill, if an affidavit is filed in the probate court under the last two bullet points, the court may detain the defendant for ten days pending civil commitment and the court must send to the probate court copies of all written reports of the defendant's mental condition (under current law, the court was not required to send the probate court copies of all written reports of the defendant's mental condition).<sup>37</sup>

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<sup>31</sup> R.C. 2945.38(H)(4)(a)(iii).

<sup>32</sup> R.C. 2945.38(H)(4)(a).

<sup>33</sup> R.C. 2945.39(A).

<sup>34</sup> R.C. 2945.38(C)(1). The maximum period for treatment was amended to three years by S.B. 295, effective February 20, 2026.

<sup>35</sup> R.C. 2945.39(A)(1)(a).

<sup>36</sup> R.C. 2945.39(A)(1)(b).

<sup>37</sup> R.C. 2945.39(A)(1)(c).

- Under continuing law, on the motion of the prosecutor or the court, the court may retain jurisdiction over the defendant if, at a hearing, the court finds by clear and convincing evidence both of the following:<sup>38</sup>
  - The defendant committed the offense with which the defendant is charged.
  - The defendant is a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order.

If a court conducts a hearing and does not make the findings in the last two bullet points by clear and convincing evidence, the court is required to dismiss the indictment, information, or complaint and to order the discharge of the defendant. The bill modifies the exception to this provision as follows:<sup>39</sup>

- If the defendant is not charged with a felony offense or a misdemeanor offense of violence, the court or the prosecutor may file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order (under current law, the prosecutor could file the affidavit regardless of whether the defendant had been charged with a felony offense or a misdemeanor offense of violence).<sup>40</sup>
- If the defendant is charged with a felony offense or a misdemeanor offense of violence, the prosecutor must file an affidavit in the probate court for the civil commitment of a defendant alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.<sup>41</sup>
- If an affidavit is filed in the probate court under the last two bullet points, the court may detain the defendant for ten days pending civil commitment and must send to the probate court copies of all written reports of the defendant's mental condition (under current law, the court was not required to send the probate court copies of all written reports of the defendant's mental condition).<sup>42</sup>

If the court files a motion or affidavit as described above, the court must not discharge the defendant.<sup>43</sup>

### **Termination of commitment**

A defendant or person who has been committed under the Competency to Stand Trial Law or Not Guilty by Reason of Insanity Law continues to be under the jurisdiction of the trial

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<sup>38</sup> R.C. 2945.39(A)(2).

<sup>39</sup> R.C. 2945.39(C).

<sup>40</sup> R.C. 2945.39(C)(1).

<sup>41</sup> R.C. 2945.39(C)(2).

<sup>42</sup> R.C. 2945.39(C)(3).

<sup>43</sup> R.C. 2945.39(C).

court under the final termination of the commitment which occurs upon the earlier of one of the following as modified by the bill:<sup>44</sup>

- Under continuing law, the defendant or person is no longer a person with a mental illness subject to court order or a person with an intellectual disability subject to institutionalization by court order.
- Under the bill, the expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity or six months, whichever is longer (under current law, it occurred upon the expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity).

## Definitions

### **“Person with a mental illness subject to court order”**

The bill modifies the definition of a “person with a mental illness subject to court order” for purposes of the Competency to Stand Trial Law by providing that a person who only meets the criteria under (5) below is not subject to hospitalization unless criminal proceedings are pending against the person and the court seeks hospitalization under the Competency to Stand Trial Law.<sup>45</sup> Conversely, under the Involuntary Treatment for Mental Illness Law, a person who only meets the criteria under (5) below is not subject to hospitalization.<sup>46</sup> Under current law, the same definition of a “person with a mental illness subject to court order” is used under both the Competency to Stand Trial Law and the Involuntary Treatment for Mental Illness Law.<sup>47</sup>

Despite the different definitions, the bill specifies that the definition of a “person with a mental illness subject to court order” as defined in the Competency to Stand Trial Law must be applied in the same manner as the definition of a “person with mental illness subject to court order” as defined in the Hospitalization of Mentally Ill Law.<sup>48</sup>

The definition of a **“person with a mental illness subject to court order”** means a person with a mental illness who, because of the person’s mental illness:<sup>49</sup>

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<sup>44</sup> R.C. 2945.401(J)(1).

<sup>45</sup> R.C. 2945.37(A)(10)(e)(ii).

<sup>46</sup> R.C. 5122.01(B)(5)(b), not in the bill.

<sup>47</sup> R.C. 2945.37(A)(7) and 5122.01(B)(5)(b), not in the bill.

<sup>48</sup> R.C. 2945.401(B).

<sup>49</sup> R.C. 2945.37(A)(10).

1. Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
2. Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;
3. Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community;
4. Would benefit from treatment for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person;
5. Would benefit from treatment as manifested by evidence of behavior that indicates all of the following:
  - a. The person is unlikely to survive safely in the community without supervision, based on a clinical determination.
  - b. The person has a history of lack of compliance with treatment for mental illness and one of the following applies:
    - i. At least twice within the 36 months prior to the filing of an affidavit seeking court-ordered treatment of the person, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the 36-month period must be extended by the length of any hospitalization or incarceration of the person that occurred within the 36-month period.
    - ii. Within the 48 months prior to the filing of an affidavit seeking court-ordered treatment of the person, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the 48-month period must be extended by the length of any hospitalization or incarceration of the person that occurred within the 48-month period.
  - c. The person, as a result of the person's mental illness, is unlikely to voluntarily participate in necessary treatment.
  - d. In view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in a substantial risk of serious harm to the person or others.

- e. In view of the person’s criminal history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in a substantial risk of the person committing additional criminal acts.

**“Person with an intellectual disability subject to institutionalization by court order”**

The bill uses the following current law definitions:

- **“Person with an intellectual disability subject to institutionalization by court order”** means a person 18 years of age or older with at least a moderate level of intellectual disability and in relation to whom, because of the person’s disability, either of the following conditions exists:<sup>50</sup>
  - The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person’s most basic physical needs and that provision for those needs is not available in the community.
  - The person needs and is susceptible to significant habilitation in an institution.
- **“Intellectual disability”** means a disability characterized by having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.<sup>51</sup>

**Mental health and substance abuse community-based correctional facility pilot program**

The bill requires the Department of Rehabilitation and Correction (DRC) to establish a Mental Health and Substance Abuse Community-Based Correctional Facility Pilot Program to expand mental health and substance abuse treatment opportunities in community-based correctional facilities.<sup>52</sup>

Under the Mental Health and Substance Abuse Community-Based Correctional Facility Pilot Program, the bill requires DRC to do all of the following:<sup>53</sup>

- Identify existing locations within community-based correctional facilities where residents in need of mental health or substance abuse treatment may reside;
- Acquire medications for mental health and substance abuse treatment and provide those medications to residents in need of mental health or substance abuse treatment in community-based correctional facilities;

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<sup>50</sup> R.C. 5123.01(O).

<sup>51</sup> R.C. 5123.01(N).

<sup>52</sup> R.C. 5120.101(A).

<sup>53</sup> R.C. 5120.101(B).

- Hire staff that specialize in mental health and substance abuse and employ them in community-based correctional facilities.

Within six months of the bill's effective date, the Medicaid Director is required to request a demonstration waiver from the U.S. Centers for Medicare & Medicaid Services to provide mental health and substance use disorder treatment services through Medicaid to residents participating in the Pilot Program.<sup>54</sup>

## Mental Health and Community Wellness Act

The name of the bill is the "Mental Health and Community Wellness Act."<sup>55</sup>

### Appropriation

The bill makes an appropriation to be used via temporary law by DRC for the construction of a mental health and substance abuse community-based correctional facility to be located on state grounds in Lucas County and adjacent to the existing Toledo Correctional Institution and Lucas County Correctional Treatment Facility.<sup>56</sup>

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## HISTORY

Action	Date
Introduced	12-08-25

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ANHB0622IN-136/ks

<sup>54</sup> Section 6.

<sup>55</sup> Section 7.

<sup>56</sup> Sections 3, 4, and 5.