



Ohio Legislative Service Commission

Bill Analysis

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S.B. 270

129th General Assembly
(As Introduced)

Sens. Brown, Kearney, Tavares

BILL SUMMARY

- Abolishes the death penalty in Ohio.
- Requires a trial court that sentenced an offender to death prior to the effective date of the bill to conduct a hearing to resentence the offender and to sentence the offender to life imprisonment without parole.
- Requires, generally, a person who is convicted of or pleads guilty to aggravated murder to be sentenced to one of three options:
 - Life imprisonment with parole eligibility after serving 20 full years of imprisonment;
 - Life imprisonment with parole eligibility after serving 30 full years of imprisonment;
 - Life imprisonment without parole.
- Requires a person who is convicted of or pleads guilty to aggravated murder of a victim less than 13 years of age and who also is convicted of or pleads guilty to a sexual motivation specification to be sentenced to an indefinite prison term of 30 years to life under the Sexually Violent Predator Sentencing Law.
- Requires a person who is convicted of or pleads guilty to aggravated murder and also is convicted of or pleads guilty to a sexual motivation specification and a

* The correction is to the description of the sentence imposed under existing law upon an offender convicted of aggravated murder but no specification of an aggravating circumstance.

sexually violent predator specification to be sentenced to a term of life imprisonment without parole under the Sexually Violent Predator Sentencing Law.

- Specifies that an offender whose sentence of death was set aside, nullified, or vacated pursuant to an existing provision but who was not resentenced under that provision as of the effective date of the bill must be resentenced in accordance with that provision as it existed immediately before the effective date of the bill.
- Specifies that an offender who was sentenced to death before the effective date of the bill will have the same right to post-conviction DNA testing as the offender had under the DNA testing provisions as they existed immediately before the effective date of the bill.
- Requires all reports and payments relating to capital cases that were required to be made under the state's Public Defender Law before the effective date of the bill to be made for the current calendar or fiscal year, as applicable, in accordance with the law as it existed immediately before the effective date of the bill.
- Makes three technical changes to provisions resulting from Am. Sub. H.B. 86 of the 129th General Assembly.
- Declares an emergency.

TABLE OF CONTENTS

Abolishment of the death penalty in Ohio	3
Abolition and resentencing of previously sentenced offender	3
New sentencing for aggravated murder	3
Fines	4
Resentencing of offenders whose sentences were previously set aside, nullified, or vacated	4
Right to post-conviction DNA testing	4
Reimbursements for counties' costs and expenses of conducting defense in capital cases	4
Death penalty – current law	5
Offense of aggravated murder	5
Sentencing procedures for aggravated murder	6
Aggravating circumstances	7
Mitigating factors	9
Appellate review of a death sentence	9
Resentencing hearings when death sentence set aside, nullified, or vacated	10
Juveniles are not subject to the death penalty	11
Definitions	12
Repeals	13
Cross-references and conforming changes	16
Technical changes related to Am. Sub. H.B. 86 of the 129th General Assembly	18

CONTENT AND OPERATION

Abolishment of the death penalty in Ohio

Abolition and resentencing of previously sentenced offender

The bill abolishes the death penalty in Ohio. A trial court that sentenced an offender to death prior to the effective date of the bill must conduct a hearing to resentence the offender. At the resentencing hearing, the court must impose upon the offender a sentence of life imprisonment without parole.¹

New sentencing for aggravated murder

Except as described in the next paragraph, the bill requires a person who is convicted of or pleads guilty to aggravated murder (see "**Offense of aggravated murder**," below, for elements of the offense of aggravated murder) to be sentenced to one of three options:²

- (1) Life imprisonment with parole eligibility after serving 20 full years of imprisonment;
- (2) Life imprisonment with parole eligibility after serving 30 full years of imprisonment;
- (3) Life imprisonment without parole.

If a person is convicted of or pleads guilty to aggravated murder, the victim of the offense was less than 13 years of age, and the offender also is convicted of or pleads guilty to a sexual motivation specification (see "**Definitions**," below) that was included in the indictment, count in the indictment, or information charging the offense, except as described in the next sentence the court must impose an indefinite prison term of 30 years to life under the Sexually Violent Predator Sentencing Law. If a person is convicted of or pleads guilty to aggravated murder and also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification (see "**Definitions**," below) that were included in the indictment, count in the indictment, or information that charged the murder, the court must impose upon the offender a

¹ R.C. 2929.02(G).

² R.C. 2929.02(A).

term of life imprisonment without parole under the Sexually Violent Predator Sentencing Law.³

Fines

The bill retains the provision that specifies that in addition to any prison term imposed on an offender for aggravated murder the offender may be fined an amount fixed by the court, but not more than \$25,000 for aggravated murder or \$15,000 for murder.⁴

Resentencing of offenders whose sentences were previously set aside, nullified, or vacated

Under the bill, an offender whose sentence of death has been set aside, nullified, or vacated pursuant to R.C. 2929.06 (see "**Resentencing hearings when death sentence set aside, nullified, or vacated**," below) as it existed immediately before the effective date of the bill but who has not been resentenced under that section as of the effective date of the bill must be resentenced in accordance with that section as it existed immediately before the effective date of the bill.⁵

Right to post-conviction DNA testing

An offender who was sentenced to death before the effective date of the bill will have the same right to post-conviction DNA testing as the offender had under the DNA testing provisions of the Revised Code as they existed immediately before the effective date of the bill or as they may hereafter be amended.⁶

Reimbursements for counties' costs and expenses of conducting defense in capital cases

Under current law, the State Public Defender must reimburse 50% of all costs and expenses of conducting the defense in capital cases to each county.⁷ The total amount of money paid to all counties in any fiscal year pursuant to that requirement for the reimbursement of a percentage of the counties' costs and expenses of conducting the defense in capital cases must not exceed the total amount appropriated for that fiscal

³ R.C. 2929.02(C), cross-referenced at R.C. 2929.14(E)(5) and (6), 2941.148(A)(1)(e) and (f), 2971.03(B)(3)(c), 2971.07(A)(6) and (7), and 5120.61(A)(1)(e) and (f).

⁴ R.C. 2929.02(D).

⁵ Section 3, division (A).

⁶ Section 3, division (B).

⁷ R.C. 120.35, not in (but repealed by) the bill.

year by the General Assembly for the reimbursement of the counties for conducting the defense in capital cases. If the amount appropriated by the General Assembly in any fiscal year is insufficient to pay 50% of the counties' total costs and expenses of conducting the defense in capital cases in the fiscal year, the amount of money paid in that fiscal year to each county for the fiscal year must be reduced proportionately so that each county is paid an equal percentage of its costs and expenses of conducting the defense in capital cases in the fiscal year.⁸

The bill repeals the provisions that pertain to reimbursement of capital cases.⁹ Under the bill, all reports and payments relating to capital cases that were required to be made under the provisions described above as those provisions existed immediately before the effective date of the bill must be made for the current calendar or fiscal year, as applicable, in accordance with those provisions as they existed immediately before the effective date of the bill.¹⁰

Death penalty – current law

Current Ohio law allows the death penalty only for the offense of aggravated murder when the offender also is convicted of one or more specifications of an aggravating circumstance and the court determines after applying a specified balancing test that the death penalty is appropriate.

Offense of aggravated murder

Current law, unchanged by the bill, prohibits many different types of conduct that are included within the offense of aggravated murder. Under that offense, current law prohibits the following acts:¹¹

(1) Purposely, and with prior calculation and design, causing the death of another or the unlawful termination of another's pregnancy;

(2) Purposely causing the death of another or the unlawful termination of another's pregnancy while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit, kidnapping, rape, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, terrorism, or escape;

⁸ R.C. 120.34.

⁹ R.C. 120.34 and repeal of R.C. 120.35.

¹⁰ Section 3, division (C).

¹¹ R.C. 2903.01, not in the bill.

(3) Purposely causing the death of another who is under 13 years of age at the time of the commission of the offense;

(4) Purposely causing the death of another when the offender is under detention as a result of having been found guilty of or having pleaded guilty to a felony or has broken that detention;

(5) Purposely causing the death of a law enforcement officer whom the offender knows or has reasonable cause to know is a law enforcement officer when either of the following applies:

(a) The victim, at the time of the commission of the offense, is engaged in the victim's duties.

(b) It is the offender's specific purpose to kill a law enforcement officer.

Whoever violates one of these prohibitions is guilty of aggravated murder and must be sentenced either to life imprisonment or if the death penalty potentially is applicable to death, as discussed below.¹²

Sentencing procedures for aggravated murder

Currently, the only situation in which a person potentially might face a sentence of death is when the person is convicted of the offense of aggravated murder and of one or more specifications of an "aggravating circumstance" (see below). If a person is convicted of the offense but no such specification, the court must sentence the person to life imprisonment without parole, life imprisonment with parole eligibility after serving 30 full years of imprisonment, life imprisonment with parole eligibility after serving 25 full years of imprisonment, life imprisonment with parole eligibility after serving 20 years of imprisonment, or a special type of life imprisonment under the Sexually Violent Predator Sentencing Law. If a person is convicted of both the offense and one or more such specification, and did not raise the matter of age or was found to have been 18 or older at the time of the commission of the offense, the trial jury and trial judge or the three-judge panel that tried the case conducts a sentencing hearing to determine the sentence to impose on the person.

In determining whether to impose the death penalty, the trial jury and the trial judge or the three-judge panel must consider a presentence investigation report and a report regarding a mental examination of the offender if requested by the offender, any evidence raised at trial that is relevant to the aggravating circumstances proved or to

¹² R.C. 2903.01(F), not in the bill, and 2929.02(A).

any factors in mitigation of a death sentence, testimony and evidence relevant to the nature and circumstances of the aggravating circumstances proved, the statutory "mitigating factors" (see below), any other mitigating factors, and statements of the offender and arguments of counsel that are relevant to the penalty to be imposed. The offender has the burden of going forward with the evidence of any mitigating factors. The prosecution, then, has the burden of proving beyond a reasonable doubt that the aggravating circumstances the offender was found guilty of committing are sufficient to outweigh the factors in mitigation of death.

The offender may be sentenced to death only if the trial jury and trial judge or the three-judge panel determines at the hearing that the aggravating circumstances the offender was convicted of committing outweigh all mitigating factors in the case. If the death penalty is imposed, the court or panel must state in a separate opinion its specific findings as to the existence of any of the mitigating factors, the aggravating circumstances the offender was found guilty of committing, and the reasons why the aggravating circumstances were sufficient to outweigh the mitigating factors. If the trial jury and trial judge or the three-judge panel does not sentence the offender to death, it must sentence the offender to life imprisonment without parole, life imprisonment with parole eligibility after serving 30 full years of imprisonment, life imprisonment with parole eligibility after serving 25 full years of imprisonment, or a special type of sentence of life imprisonment under the Sexually Violent Predator Sentencing Law.¹³

Aggravating circumstances

The death penalty may be imposed only if the indictment or count in the indictment specifies one of the following aggravating circumstances, and the aggravating circumstance is proved beyond a reasonable doubt.¹⁴ These aggravating circumstances include any of the following:¹⁵

(1) The offense was the assassination of the President of the United States or a person in line of succession to the presidency, the Governor or Lieutenant Governor of Ohio, the President-elect or Vice President-elect of the United States, the Governor-elect or Lieutenant Governor-elect of Ohio, or a candidate for any of these offices.

(2) The offense was committed for hire.

¹³ R.C. 2929.02; R.C. 2929.021 to 2929.06, not in (but repealed by) the bill.

¹⁴ R.C. 2929.03 and 2929.04(A), not in (but repealed by) the bill.

¹⁵ R.C. 2929.04(A), not in (but repealed by) the bill.

(3) The offense was committed for the purpose of escaping detection, apprehension, trial, or punishment for another offense committed by the offender.

(4) The offense was committed while the offender was under certain types of detention or while the offender was at large after having broken detention.

(5) Prior to the offense at bar, the offender was convicted of an offense an essential element of which was the purposeful killing of or attempt to kill another, or the offense at bar was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons by the offender.

(6) The victim of the offense was a law enforcement officer, whom the offender had reasonable cause to know or knew to be a law enforcement officer, and either the victim, at the time of the commission of the offense, was engaged in the victim's duties, or it was the offender's specific purpose to kill a law enforcement officer.

(7) The offense was committed while the offender was committing, attempting to commit, or fleeing immediately after committing or attempting to commit kidnapping, rape, aggravated arson, aggravated robbery, or aggravated burglary, and either the offender was the principal offender in the commission of the aggravated murder or, if not the principal offender, committed the aggravated murder with prior calculation and design.

(8) The victim of the aggravated murder was a witness to an offense who was purposely killed to prevent the victim's testimony in any criminal proceeding, and the aggravated murder was not committed during the commission, attempted commission, or flight immediately after the commission or attempted commission of the offense to which the victim was a witness, or the victim of the aggravated murder was a witness to an offense and was purposely killed in retaliation for the victim's testimony in any criminal proceeding.

(9) The offender, in the commission of the offense, purposefully caused the death of another who was under 13 years of age at the time of the commission of the offense, and either the offender was the principal offender in the commission of the offense or, if not the principal offender, committed the offense with prior calculation and design.

(10) The offense was committed while the offender was committing, attempting to commit, or fleeing immediately after committing or attempting to commit terrorism.

Mitigating factors

If one or more of the aggravating circumstances listed above is specified in the indictment or count in the indictment and proved beyond a reasonable doubt, and if the offender did not raise the matter of age, as discussed below in "**Juveniles are not subject to the death penalty**" or if the offender, after raising the matter of age, was found at trial to have been 18 or older at the time of the commission of the offense, the trial judge and trial jury or panel of three judges (depending on who tried the case) must consider, and weigh against the aggravating circumstances proved, the nature and circumstances of the offense, the history, character, and background of the offender, and all of the following mitigating factors:

- (1) Whether the victim of the offense induced or facilitated the offense;
- (2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation;
- (3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of the offender's conduct or to conform the offender's conduct to the requirements of the law;
- (4) The youth of the offender;
- (5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;
- (6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;
- (7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.

The offender must be given great latitude in the presentation of evidence of mitigating factors and of any other factors in mitigation of the imposition of the sentence of death.¹⁶

Appellate review of a death sentence

When a sentence of death is imposed, the appellate court is required to review upon appeal the sentence of death at the same time that it reviews the other issues in

¹⁶ R.C. 2929.04(B) and (C), not in (but repealed by) the bill.

the case. The judgment in the case and the sentence of death are to be reviewed in the same manner as any other criminal case, except that the court must review and independently weigh all of the facts and other evidence disclosed in the record in the case, consider the offense and the offender to determine whether the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors in the case, and consider whether the sentence of death is appropriate. In determining whether the sentence of death is appropriate, the appellate court must consider whether the sentence is excessive or disproportionate to the penalty imposed in similar cases. The court must also review all of the facts and other evidence to determine if the evidence supports the finding of the aggravating circumstances the trial jury or the panel of three judges found the offender guilty of committing and must determine whether the sentencing court properly weighed the aggravating circumstances the offender was found guilty of committing and the mitigating factors. The appellate court may only affirm a sentence of death if the court is persuaded from the record that the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors present in the case and that the sentence of death is the appropriate sentence in the case.¹⁷

Resentencing hearings when death sentence set aside, nullified, or vacated

Under current law, the trial court that sentenced the offender must conduct a hearing to resentence the offender if a sentence of death is set aside, nullified, or vacated for any of the following reasons:

(1) The court of appeals, in a case in which a sentence of death was imposed for an offense committed before January 1, 1995, could not affirm the sentence of death under the standards imposed by R.C. 2929.05.

(2) The Supreme Court, in cases in which the Supreme Court reviews the sentence upon appeal, could not affirm the sentence of death under the standards imposed by R.C. 2929.05.

(3) The statutory procedure for imposing the sentence of death is unconstitutional.

(4) The court of common pleas vacates the sentence because the offender did not present evidence at trial that the offender was not 18 years of age or older at the time of the commission of the aggravated murder for which the offender was sentenced and if the offender shows by a preponderance of the evidence that the offender was less than

¹⁷ R.C. 2929.05, not in (but repealed by) the bill.

18 years of age at the time of the commission of the aggravated murder for which the offender was sentenced.

(5) A court has determined that the offender is mentally retarded under standards set forth in decisions of the Supreme Court of this state or the United States Supreme Court.

At the resentencing hearing, the court must impose upon the offender a sentence of life imprisonment or an indefinite term consisting of a minimum term of 30 years and a maximum term of life imprisonment. If the Revised Code as it existed at the time the offender committed the aggravated murder for which the sentence of death was imposed required the imposition of either of the following when a sentence of death was not imposed, the court must impose the sentence so required:

(1) A sentence of life imprisonment without parole;

(2) A sentence of an indefinite term consisting of a minimum term of 30 years and a maximum term of life imprisonment pursuant to a sexually violent predator specification.

In all other cases, the sentences of life imprisonment that are available at the hearing, and from which the court must impose sentence, must be the same sentences of life imprisonment that were available under the Revised Code as it existed at the time the offender committed the offense for which the sentence of death was imposed.¹⁸

Juveniles are not subject to the death penalty

Current law permits a defendant who is charged with aggravated murder and one or more of the specifications listed above in "**Aggravating circumstances**" to raise the matter of age at the time of the alleged commission of the offense. The defendant may present evidence at trial that he or she was not 18 at the time of the alleged commission of the offense. The burdens of raising the matter of age and of going forward with the evidence relating to the defendant's age are upon the defendant. After a defendant has raised the matter of age at trial, the prosecution has the burden of proving beyond a reasonable doubt that the defendant was at least 18 years old at the time of the alleged commission of the offense.¹⁹

¹⁸ R.C. 2929.06, not in (but repealed by) the bill.

¹⁹ R.C. 2929.023, not in (but repealed by) the bill.

If a person raises the matter of age and the person is not found to have been at least 18 years old at the time of the alleged commission of the offense, that person cannot be sentenced to death.²⁰

At any time after a death penalty is imposed, the court that sentenced the offender must vacate the sentence if the offender did not present evidence at trial that the offender was not 18 or older at the time of the commission of the aggravated murder for which the offender was sentenced and if the offender shows by a preponderance of the evidence that the offender was less than 18 at the time of the commission of that aggravated murder. The court is not required to hold a hearing on a motion filed under this provision unless it finds, based on the motion and any supporting information submitted by the defendant, any information submitted by the prosecutor, and the record in the case, probable cause to believe that the defendant was not 18 or older at the time of the commission of the aggravated murder for which the death penalty was imposed.²¹

Definitions

The following definitions are relevant to the bill:

"Sexual motivation specification" means a specification that charges that a person charged with a designated homicide, assault, or kidnapping offense committed the offense with a sexual motivation.²²

"Sexually violent predator specification" means a specification that charges that a person charged with a violent sex offense, or a person charged with a designated homicide, assault, or kidnapping offense and a sexual motivation specification, is a sexually violent predator.²³

"Designated homicide, assault, or kidnapping offense" means a violation or an attempt to commit or complicity in committing a violation (if the attempt or complicity is a felony) of R.C. 2903.01 (aggravated murder), 2903.02 (murder), 2903.11 (felonious assault), or 2905.01 (kidnapping) or 2903.04(A) (involuntary manslaughter as a proximate result of the offender's committing or attempting to commit a felony).²⁴

²⁰ R.C. 2929.02(A) and 2929.03(E), not in (but repealed by) the bill.

²¹ R.C. 2929.05(C), not in (but repealed by) the bill.

²² R.C. 2971.01(K), not in the bill.

²³ R.C. 2971.01(I), not in the bill.

²⁴ R.C. 2971.01(B).

"*Sexual motivation*" means a purpose to gratify the sexual needs or desires of the offender.²⁵

"*Violent sex offense*" means any of the following:²⁶

(1) A violation of section 2907.02 (rape), 2907.03 (sexual battery), or former 2907.12 (the former offense of felonious sexual penetration, if committed before September 3, 1996), 2907.05(A)(4) (sexual contact with a person under the age of 13), or 2907.05(B) (knowingly touching the genitalia of a person under the age of 12 under certain circumstances);

(2) A felony violation of a former law of this state that is substantially equivalent to a violation listed in (1), above, or of an existing or former law of the United States or of another state that is substantially equivalent to a violation listed in (1), above;

(3) An attempt to commit or complicity in committing a violation listed in (1), above, if the attempt or complicity is a felony.

Repeals

The bill repeals 21 sections of the Revised Code. The following chart lists these sections, and a brief description of each.

Repealed section	Brief description
R.C. 109.97	Required the Attorney General to prepare an annual capital case status report that contained information about every individual sentenced to death for committing an aggravated murder.
R.C. 120.35	Required the State Public Defender to reimburse 50% of all costs and expenses of conducting the defense in capital cases.
R.C. 2929.021	Required the clerk of court to file notice with the Supreme Court of any indictment that charged a defendant with aggravated murder and also contained one or more aggravating circumstances that could lead to a sentence of death.

²⁵ R.C. 2971.01(J).

²⁶ R.C. 2971.01(L).

Repealed section	Brief description
R.C. 2929.022	Provided the option to a defendant charged with aggravated murder and one or more specifications of aggravating circumstances to have a panel of three judges or, if the defendant was tried by a jury, the trial judge, determine the existence of the aggravating circumstance of a prior conviction at the sentencing hearing.
R.C. 2929.023	Permitted a person charged with aggravated murder and one or more specifications of an aggravating circumstance to raise the matter of the person's age at the time of the alleged commission of the offense and to present evidence at trial that the person was not 18 years of age or older at the time of the alleged commission of the offense.
R.C. 2929.024	Required the court to order that payment of fees and expenses for necessary services for an indigent defendant charged with aggravated murder be made in the same manner that payment for appointed counsel is made for other indigent defendants by the public defender.
R.C. 2929.03	Specified sentences for offenders found guilty of aggravated murder, and prohibited imposition of the death penalty on an individual who raised the matter of age at trial and was found not to have been 18 at the time of the commission of the offense.
R.C. 2929.04	Listed the aggravating circumstances to be specified in the indictment and proved beyond a reasonable doubt before imposition of a sentence of death, and listed the mitigating factors that the panel of judges, trial judge, or jury had to consider and weigh against the aggravating circumstances before imposing a sentence of death.
R.C. 2929.05	Required the Supreme Court to review upon appeal the sentence of death at the same time that it reviewed the other issues in the case, and to review and independently weigh all of the facts and other evidence disclosed in the record in the case and consider the offense and the offender to determine whether the aggravating circumstances the offender was found guilty of committing outweighed the mitigating factors in the case, and whether the sentence of death was appropriate.



Repealed section	Brief description
R.C. 2929.06	Described procedures for resentencing hearings when a sentence of death was set aside, nullified, or vacated.
R.C. 2947.08	Required at least 120 days between the date of imposition of a sentence of death and the resulting execution.
R.C. 2949.21	Required a writ for the execution of the death penalty to be directed to the sheriff by the court issuing it, and required the sheriff to privately convey the prisoner to the facility designated by the Director of Rehabilitation and Correction for the reception of the prisoner within 30 days.
R.C. 2949.22	Prescribed the method for executing a death sentence to be via lethal injection of a drug or combination of drugs of sufficient dosage to quickly and painlessly cause death.
R.C. 2949.24	Required the warden or another person selected by the Director of Rehabilitation and Correction to proceed at the time and place named in the warrant to ensure that the death sentence of the prisoner under death sentence was executed, unless a suspension of execution was ordered by a court.
R.C. 2949.25	Listed the persons who could be present at the execution of a death sentence.
R.C. 2949.26	Prescribed the method for disposal of the body of an executed offender.
R.C. 2949.27	Required the court to again fix the time for execution if an offender escaped after sentence of death and was not retaken before the time fixed for the offender's execution.
R.C. 2949.28	Required notice to be sent to the sentencing court if a convict sentenced to death later appeared not to have the mental capacity to understand the nature of the death penalty and why it was imposed upon the convict (i.e. appeared to be "insane"), and prescribed procedures for the court to follow when determining whether or not the convict was insane.

Repealed section	Brief description
R.C. 2949.29	Required the prosecuting attorney, the convict, and the convict's counsel to attend an inquiry commenced by a court to determine whether a convict was insane, and prescribed procedures for providing treatment to a convict found to be insane.
R.C. 2949.31	Provided for suspension of a sentence of death if a female convict was found to be pregnant, and required the court to set a new date for execution after the female is no longer pregnant.
R.C. 2967.08	Permitted the Governor to grant a reprieve for a definite time to a person under sentence of death, with or without notices or application.

Cross-references and conforming changes

The bill eliminates cross-references to the death penalty and related provisions in the following sections of the Revised Code: R.C. 120.14, 120.18, 120.24, 120.28, 120.33, 1901.183, 2152.13, 2152.67, 2307.60, 2313.37, 2701.07, 2743.51, 2929.13, 2929.14, 2941.021, 2941.148, 2941.401, 2941.43, 2941.51, 2945.33, 2945.38, 2949.02, 2949.03, 2953.08, 2953.71, 2953.72, 2953.81, 2967.13, 2967.193, 2971.03, 2971.07, 5120.113, 5120.61, and 5919.16.

The following chart lists Revised Code sections that have been amended to eliminate a process or procedure related to the death penalty and includes a brief description of that process or procedure.

Section	Brief description of process or procedure eliminated
R.C. 120.03(C)	Provided authority to the Ohio Public Defender Commission to prescribe special qualifications for counsel and co-counsel appointed in capital cases.
R.C. 120.06(F)	Required attorneys appointed by the office of the State Public Defender to represent a petitioner in a post-conviction relief proceeding involving a sentence of death to be certified under Rule 20 of the Rules of Superintendence of the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.

Section	Brief description of process or procedure eliminated
R.C. 120.16(G)	Required attorneys appointed by the office of the county public defender to represent a petitioner in a post-conviction relief proceeding involving a sentence of death to be certified under Rule 20 of the Rules of Superintendence of the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.
R.C. 120.26(G)	Required attorneys appointed by the office of the joint county public defender to represent a petitioner in a post-conviction relief proceeding involving a sentence of death to be certified under Rule 20 of the Rules of Superintendence of the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.
R.C. 120.33(C)	Required attorneys appointed by a board of county commissioners in lieu of using a county public defender or joint county public defender to represent a petitioner in a post-conviction relief proceeding involving a sentence of death to be certified under Rule 20 of the Rules of Superintendence of the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.
R.C. 2301.20(A) and (B)	Referred to preservation of shorthand notes of trial proceedings in capital cases.
R.C. 2901.02(B)	Classified aggravated murder when the indictment included at least one aggravating circumstance as a capital offense.
R.C. 2909.24(B)(4)	Specified a death sentence as a possible penalty for terrorism if the most serious underlying offense the defendant committed was aggravated murder.
R.C. 2941.14(B) and (C)	Described the process for the inclusion of specifications of aggravating circumstances in an indictment charging aggravated murder and stated that the death penalty is precluded without such a specification.
R.C. 2945.06	Described procedure for trial by a court composed of three judges of an offender charged with an offense punishable with death.
R.C. 2945.21(A)(2)	Described procedure for peremptory challenges of potential jurors when trying capital cases.
R.C. 2945.25(C)	Described procedure for challenges for cause of potential jurors when trying capital cases.
R.C. 2953.02	Described the right to an appeal of a death sentence.

Section	Brief description of process or procedure eliminated
R.C. 2953.07	Required the appellate court when a death sentence is affirmed to appoint a day for execution and issue a warrant to the sheriff or warden to carry the sentence out.
R.C. 2953.09(A)(2)(b)	Specified the circumstances under which a court of common pleas or court of appeals could suspend the execution of a sentence of death.
R.C. 2953.10	Specified the authority of the Supreme Court to suspend the execution of a sentence of death during appeal.
R.C. 2953.21(A), (H), and (I)	Described process for filing of post-conviction petition for relief for offenders sentenced to death, specified the Supreme Court's authority to stay the execution of a sentence of death, and provided for the appointment of counsel to file post-conviction petitions for relief for offenders sentenced to death.
R.C. 2953.23(A)	Described the circumstances when a post-conviction petition for relief for an offender sentenced to death will be considered if filed after the deadline for filing such petitions.
R.C. 2967.05(C)	Specified that an offender who is in imminent danger of death, medically incapacitated, or suffering from a terminal illness is ineligible for early release if sentenced to death.

Technical changes related to Am. Sub. H.B. 86 of the 129th General Assembly

The bill makes the following technical changes to provisions resulting from Am. Sub. H.B. 86 of the 129th General Assembly:

(1) In provisions enacted in that act that generally provide for community control sanctions for persons convicted of a fourth or fifth degree felony that is not an offense of violence, it clarifies the circumstances in which a court may impose a prison term instead of a community control sanction after the court requested assistance from the Department of Rehabilitation and Correction in determining the names of, contact information for, and program details of community control sanctions available for persons sentenced by that court.²⁷

(2) In provisions amended by that act that provide for the sentencing of an offender under the Repeat Violent Offender Sentencing Law, it changes erroneous

²⁷ R.C. 2929.13(B)(1)(c).

cross-references to division (D) of that section with the correct cross-references to division (B) of that section.²⁸

(3) In provisions amended by that act, it corrects division designations erroneously resulting from the act.²⁹

HISTORY

ACTION	DATE
Introduced	12-15-11

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²⁸ R.C. 2929.14(B)(2)(a)(iv) and (v).

²⁹ R.C. 2929.14(I) and (J).

