Jennifer L. La Fayette *Legislative Service Commission*

H.B. 351

124th General Assembly
(As Introduced)

Reps. Woodard, Key, Barrett, Jones, Seitz, Sykes, Krupinski, Allen, Fedor, Seaver

BILL SUMMARY

- Allows a child charged with an act involving the use of force against another that would be an offense if committed by an adult to introduce expert testimony of the "battered woman syndrome" to establish the affirmative defense of self-defense or to prove the child is not guilty by reason of insanity.

CONTENT AND OPERATION

Background

"Battered woman syndrome" is a collection of psychological symptoms suffered by battered women, often considered a subcategory of post traumatic stress disorder. The symptoms include fearfulness and panic disorders, loss of cognitive ability and memory, and paranoia.[1]

Under Ohio law, the "battered woman syndrome" cannot be used as a defense or justification for committing an offense involving the use of force against another. But, it can be used to prove self-defense and to prove that the woman is not guilty by reason of insanity.

Existing law

Under existing law, Ohio recognizes both of the following: (1) that the "battered woman syndrome" currently is a matter of commonly accepted scientific

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[1] *American Judges Association website: http://aja.ncsc.dni.us/domviol/page6.html; Dutton, Validity of "Battered Woman Syndrome" in Criminal Cases Involving Battered Women, U.S. Department of Justice, Office of Justice Programs website: http://www.ojp.usdoj.gov/ocpa/94Guides/Trials/Valid/.*

knowledge, and (2) that the subject matter and details of the syndrome are not within the general understanding or experience of a person who is a member of the general populace and are not within the field of common knowledge (R.C. 2901.06(A)).

R.C. 2901.06(B) states that if a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self-defense, the person may introduce expert testimony of the "battered woman syndrome" and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of the force in question.

Also, if a defendant is charged with an offense involving the use of force against another and the defendant enters a plea of not guilty by reason of insanity, expert testimony may be introduced to establish the requisite impairment of the defendant's reason, at the time of the commission of the offense, that is necessary for a finding that the defendant is not guilty by reason of insanity.

The introduction of any expert testimony under R.C. 2901.06 or 2945.32 must be in accordance with the Ohio Rules of Evidence. (R.C. 2901.06(B) and 2945.32(B).)

Operation of the bill

The bill applies the "battered woman syndrome" to juvenile courts. Under the bill, a child who is alleged to be a delinquent child and charged with an act involving the use of force against another that would be an offense if committed by an adult will be able to raise the affirmative defense of self-defense or enter a plea to the charge of not guilty by reason of insanity and introduce expert testimony of the "battered woman syndrome" to establish the affirmative defense or that the child is not guilty by reason of insanity. (R.C. 2901.06(B) and 2945.392(B).)

HISTORY

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