



H.B. 541

124th General Assembly
(As Introduced)

Reps. Latta, Calvert, Fessler, Allen, Webster

BILL SUMMARY

- Permits a defendant to waive a trial by jury only with the approval of the court and the consent of the prosecutor in the case.
- Permits a defendant to waive a trial by jury in writing or in open court.
- Eliminates the statutory form for a written waiver of a trial by jury.

CONTENT AND OPERATION

Existing law

Under existing law, in all criminal cases pending in a court of record, the defendant is permitted to waive a trial by jury and be tried by the court without a jury. The waiver by a defendant, must be in writing, signed by the defendant, filed with the court, made a part of the record, and be made in open court after the defendant has been arraigned and has had the opportunity to consult with counsel. The waiver may be withdrawn by the defendant at any time before the commencement of the trial.

The waiver is required to contain the following language: "I_____, defendant in the above cause, hereby voluntarily waive and relinquish my right to a trial by jury, and elect to be tried by a Judge of the Court in which the said cause may be pending. I fully understand that under the laws of this state, I have a constitutional right to a trial by jury." (R.C. 2945.05.)

Operation of the bill

Under the bill, the defendant in a criminal case pending in a court of record of this state is permitted to waive a trial by jury and be tried by the court without a jury only *with the consent of the prosecutor and the approval of the court*. The waiver either can be made in writing or in open court after the defendant has been

arraigned and has had the opportunity to consult with counsel. The waiver no longer is required to be made in writing, signed by the defendant, filed in the cause of action, and made a part of the record. Also, the bill removes the statutory language that is currently required to be in the written waiver of trial by jury. (R.C. 2945.05.)

As used in the bill, "prosecutor" has the same meaning as in existing R.C. 2935.01 and includes the county prosecuting attorney and any assistant prosecutor designated to assist the county prosecuting attorney, and, in the case of courts inferior to courts of common pleas, includes the village solicitor, city director of law, or similar chief legal officer of a municipal corporation, any such officer's assistants, or any attorney designated by the prosecuting attorney of the county to appear for the prosecution of a given case (R.C. 2945.05 and 2935.01(C)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-13-02	p. 1547

h0541-i.124/kl

