



S.B. 41

127th General Assembly
(As Introduced)

Sens. Spada, Gardner, Clancy, Schuler, Amstutz, Padgett, D. Miller, Smith, Cafaro, Schaffer

BILL SUMMARY

- Replaces certain terms in the Revised Code that refer to persons with certain conditions.

CONTENT AND OPERATION

Background

The Revised Code uses a number of terms to refer to persons with certain conditions. These terms include "lunatic," "idiot," "imbecile," "drunkard," "deaf and dumb," and "insane." Many of the sections that contain these words have not been amended since the Code was reorganized in 1953.

The bill

As shown in the table below, the bill eliminates the terms described above and replaces them with terms that are more consistent with modern use. The bill uses "incompetent by reason of mental illness"¹ as a replacement in most cases.

The term "mental illness" is also used several times to replace certain language. "Mental illness" is defined in R.C. 5122.01, which governs the Department of Mental Health, as "a substantial disorder of thought, mood,

¹ While the term, "incompetent by reason of mental illness" is not defined in current law, the term "incompetent" is defined in R.C. 2111.01, which governs guardianship, as "any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this state." Therefore, the term "incompetent" encompasses more persons than those with a mental illness.

perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life."

In a few sections, no replacement terms were needed as the current language is unnecessary or repetitive and can be stricken.

<u>Revised Code section</u>	<u>Term(s)</u>	<u>Replacement</u>
701.01 Definitions for Revised Code Title VII	Insane, lunatic	Language stricken ²
711.23 Plats--application for vacation and assessment of damages	Persons of insane mind	Persons incompetent by reason of mental illness
1775.31 Dissolution of a partnership by court decree	Lunatic	Incompetent by reason of mental illness
2111.37 Guardian for nonresident--property rights	Habitual drunkard, idiot, imbecile, lunatic	Strike language ³ ("incompetent" is retained)
2111.47 Termination of guardianship	Insane person, restored to sanity	Person who is incompetent by reason of mental illness, competent
2307.14 Civil actions-- compensation and grounds for replacement of guardian ad litem or trustee	Insane	Incompetent by reason of mental illness
2317.03 Cases in which a party shall not testify	Deaf and dumb, insane Insane	Incompetent Incompetent by reason of mental illness
2317.06 Proving testimony of absent witness	Insane	Reword existing language: <u>Unable to testify</u> because of any physical or mental infirmity
2721.05 Determination of rights or legal relations	Lunatic	Person incompetent by reason of mental illness

² Definition is not used in this title.

³ Terms are not necessary given the definition of "incompetent" in R.C. 2111.01(D) because the provision applies to "incompetents."

<u>Revised Code section</u>	<u>Term(s)</u>	<u>Replacement</u>
3763.06 Gaming-- liability of property for losses occurring thereon	Insane person or idiot	Incompetent person
4303.272 Safekeeping of liquor permits	Insane	Strike language ⁴
4399.05 Liability of owner of premises used for the sale of intoxicating liquors	Insane person or idiot	Incompetent person
4971.16 Reorganization of railroads	Insane	Person incompetent by reason of mental illness
5301.22 Effect of agreement with guardian	Idiot, lunatic, or insane person	Incompetent person
5305.17 Real property-- guardian may elect for surviving spouse	Insane	Incompetent by reason of mental illness
5305.18 Real property-- dower of incompetent person	Insane, insanity	Incompetent by reason of mental illness, competence
5305.19 Real property-- inquest of incompetence	Insane	Incompetent by reason of mental illness
5305.20 Real property-- proceedings on report of inquest of incompetence	Insane	Incompetent by reason of mental illness
5305.21 Real property-- dower of an incompetent person may be barred	Insane, insanity	Incompetent by reason of mental illness
5305.22 Real estate-- conveyed free of dower if spouse is incompetent	Insane, inmate	Incompetent by reason of mental illness, patient, mentally ill, psychiatric, strike language ⁵
5307.19 Power of guardian to act for ward in partition	Idiot, imbecile, insane	Incompetent

⁴ Term is not necessary, as the wording of the phrase includes "incompetent person."

⁵ Reference to "insane department of any epileptic hospital" is no longer necessary, as it appears that these types of hospitals no longer exist.

<u>Revised Code section</u>	<u>Term(s)</u>	<u>Replacement</u>
5307.20 Power of foreign guardian	Idiot, insane	Incompetent
5310.12 Registration of land titles--limitation of actions	Insane	Incompetent by reason of mental illness
5711.05 Returns of taxable property; fiduciary returns	Idiot, insane	Incompetent
5711.07 Proper taxing district for listing property	Insane	Incompetent by reason of mental illness
5907.06 Veterans home--person who cannot be admitted	Insane person	Person with a mental illness that causes the person to be dangerous to the community
5907.08 Veterans home--proceedings	Insane, insanity	Mental illness, dangerous to the community due to a mental illness
5907.09 Veterans--hearing by probate judge	Sanity, insane	Competence, persons with mental illness

HISTORY

ACTION

DATE

Introduced

02-20-07

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