

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 350**

**Senator Burke**

**Cosponsors: Senators Seitz, Jones**

—

**A B I L L**

To amend sections 2151.011, 2151.23, 2923.125, 1  
2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2  
2945.40, 2945.401, 2967.22, 5119.23, 5120.17, 3  
5122.01, 5122.03, 5122.05, 5122.10, 5122.11, 4  
5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 5  
5122.27, 5122.30, 5122.31, 5122.311, 5139.54, 6  
5305.22, 5907.06, and 5907.09 and to enact section 7  
5122.111 of the Revised Code and to amend the 8  
versions of sections 5122.01, 5122.27, and 5122.31 9  
of the Revised Code that are scheduled to take 10  
effect on October 1, 2012, to make changes to the 11  
laws governing the civil commitment of and 12  
treatment provided to mentally ill persons. 13

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2151.011, 2151.23, 2923.125, 14  
2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2945.40, 2945.401, 15  
2967.22, 5119.23, 5120.17, 5122.01, 5122.03, 5122.05, 5122.10, 16  
5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 5122.27, 17  
5122.30, 5122.31, 5122.311, 5139.54, 5305.22, 5907.06, and 5907.09 18  
be amended and section 5122.111 of the Revised Code be enacted to 19  
read as follows: 20

<b>Sec. 2151.011.</b> (A) As used in the Revised Code:	21
(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:	22 23 24
(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;	25 26 27 28 29
(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;	30 31 32 33
(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.	34 35
(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.	36 37
(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.	38 39 40 41 42
(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:	43 44 45 46 47
(a) Receives and cares for children for two or more consecutive weeks;	48 49
(b) Participates in the placement of children in certified	50

foster homes;	51
(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.	52 53
(B) As used in this chapter:	54
(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.	55 56 57 58 59 60
(2) "Adult" means an individual who is eighteen years of age or older.	61 62
(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.	63 64 65 66
(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.	67 68 69 70 71 72
(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.	73 74 75
(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that	76 77 78 79 80

adjudication, a person who is so adjudicated an unruly child shall 81  
be deemed a "child" until the person attains twenty-one years of 82  
age. 83

(7) "Child day camp," "child care," "child day-care center," 84  
"part-time child day-care center," "type A family day-care home," 85  
"certified type B family day-care home," "type B home," 86  
"administrator of a child day-care center," "administrator of a 87  
type A family day-care home," "in-home aide," and "authorized 88  
provider" have the same meanings as in section 5104.01 of the 89  
Revised Code. 90

(8) "Child care provider" means an individual who is a 91  
child-care staff member or administrator of a child day-care 92  
center, a type A family day-care home, or a type B family day-care 93  
home, or an in-home aide or an individual who is licensed, is 94  
regulated, is approved, operates under the direction of, or 95  
otherwise is certified by the department of job and family 96  
services, department of developmental disabilities, or the early 97  
childhood programs of the department of education. 98

(9) "Chronic truant" has the same meaning as in section 99  
2152.02 of the Revised Code. 100

(10) "Commit" means to vest custody as ordered by the court. 101

(11) "Counseling" includes both of the following: 102

(a) General counseling services performed by a public 103  
children services agency or shelter for victims of domestic 104  
violence to assist a child, a child's parents, and a child's 105  
siblings in alleviating identified problems that may cause or have 106  
caused the child to be an abused, neglected, or dependent child. 107

(b) Psychiatric or psychological therapeutic counseling 108  
services provided to correct or alleviate any mental or emotional 109  
illness or disorder and performed by a licensed psychiatrist, 110  
licensed psychologist, or a person licensed under Chapter 4757. of 111

the Revised Code to engage in social work or professional	112
counseling.	113
(12) "Custodian" means a person who has legal custody of a	114
child or a public children services agency or private child	115
placing agency that has permanent, temporary, or legal custody of	116
a child.	117
(13) "Delinquent child" has the same meaning as in section	118
2152.02 of the Revised Code.	119
(14) "Detention" means the temporary care of children pending	120
court adjudication or disposition, or execution of a court order,	121
in a public or private facility designed to physically restrict	122
the movement and activities of children.	123
(15) "Developmental disability" has the same meaning as in	124
section 5123.01 of the Revised Code.	125
(16) "Differential response approach" means an approach that	126
a public children services agency may use to respond to accepted	127
reports of child abuse or neglect with either an alternative	128
response or a traditional response.	129
(17) "Foster caregiver" has the same meaning as in section	130
5103.02 of the Revised Code.	131
(18) "Guardian" means a person, association, or corporation	132
that is granted authority by a probate court pursuant to Chapter	133
2111. of the Revised Code to exercise parental rights over a child	134
to the extent provided in the court's order and subject to the	135
residual parental rights of the child's parents.	136
(19) "Habitual truant" means any child of compulsory school	137
age who is absent without legitimate excuse for absence from the	138
public school the child is supposed to attend for five or more	139
consecutive school days, seven or more school days in one school	140
month, or twelve or more school days in a school year.	141

(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 142  
143

(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court. 144  
145  
146  
147  
148  
149  
150  
151  
152  
153

(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following: 154  
155  
156

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state; 157  
158  
159

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code; 160  
161  
162

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code. 163  
164  
165

(23) "Mental illness" and "mentally ill person subject to ~~hospitalization by~~ court order" have the same meanings as in section 5122.01 of the Revised Code. 166  
167  
168

(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the 169  
170  
171  
172

child's care.	173
(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.	174 175
(26) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.	176 177 178 179
(27) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.	180 181
(28) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.	182 183 184 185 186 187
(29) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.	188 189 190 191 192 193 194 195 196 197 198 199
(30) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:	200 201 202
(a) Engaging in sexual activity with a child in the person's	203

care;	204
(b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;	205 206 207
(c) Use of restraint procedures on a child that cause injury or pain;	208 209
(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;	210 211 212
(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.	213 214 215 216 217
(31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:	218 219 220
(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;	221 222 223
(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;	224 225 226 227
(c) Failure to develop a process for all of the following:	228
(i) Administration of prescription drugs or psychotropic drugs for the child;	229 230
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	231 232
(iii) Reporting to the licensed physician who prescribed the	233



drug all unfavorable or dangerous side effects from the use of the drug.	234 235
(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;	236 237 238
(e) Confinement of the child to a locked room without monitoring by staff;	239 240
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	241 242
(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.	243 244 245
(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.	246 247 248 249 250 251
(33) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.	252 253 254 255 256
(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.	257 258 259
(35) "Person responsible for a child's care in out-of-home care" means any of the following:	260 261
(a) Any foster caregiver, in-home aide, or provider;	262
(b) Any administrator, employee, or agent of any of the	263

following: a public or private detention facility; shelter 264  
facility; certified children's crisis care facility; organization; 265  
certified organization; child day-care center; type A family 266  
day-care home; certified type B family day-care home; group home; 267  
institution; state institution; residential facility; residential 268  
care facility; residential camp; day camp; school district; 269  
community school; chartered nonpublic school; educational service 270  
center; hospital; or medical clinic; 271

(c) Any person who supervises or coaches children as part of 272  
an extracurricular activity sponsored by a school district, public 273  
school, or chartered nonpublic school; 274

(d) Any other person who performs a similar function with 275  
respect to, or has a similar relationship to, children. 276

(36) "Physically impaired" means having one or more of the 277  
following conditions that substantially limit one or more of an 278  
individual's major life activities, including self-care, receptive 279  
and expressive language, learning, mobility, and self-direction: 280

(a) A substantial impairment of vision, speech, or hearing; 281

(b) A congenital orthopedic impairment; 282

(c) An orthopedic impairment caused by disease, rheumatic 283  
fever or any other similar chronic or acute health problem, or 284  
amputation or another similar cause. 285

(37) "Placement for adoption" means the arrangement by a 286  
public children services agency or a private child placing agency 287  
with a person for the care and adoption by that person of a child 288  
of whom the agency has permanent custody. 289

(38) "Placement in foster care" means the arrangement by a 290  
public children services agency or a private child placing agency 291  
for the out-of-home care of a child of whom the agency has 292  
temporary custody or permanent custody. 293

(39) "Planned permanent living arrangement" means an order of	294
a juvenile court pursuant to which both of the following apply:	295
(a) The court gives legal custody of a child to a public	296
children services agency or a private child placing agency without	297
the termination of parental rights.	298
(b) The order permits the agency to make an appropriate	299
placement of the child and to enter into a written agreement with	300
a foster care provider or with another person or agency with whom	301
the child is placed.	302
(40) "Practice of social work" and "practice of professional	303
counseling" have the same meanings as in section 4757.01 of the	304
Revised Code.	305
(41) "Sanction, service, or condition" means a sanction,	306
service, or condition created by court order following an	307
adjudication that a child is an unruly child that is described in	308
division (A)(4) of section 2152.19 of the Revised Code.	309
(42) "Protective supervision" means an order of disposition	310
pursuant to which the court permits an abused, neglected,	311
dependent, or unruly child to remain in the custody of the child's	312
parents, guardian, or custodian and stay in the child's home,	313
subject to any conditions and limitations upon the child, the	314
child's parents, guardian, or custodian, or any other person that	315
the court prescribes, including supervision as directed by the	316
court for the protection of the child.	317
(43) "Psychiatrist" has the same meaning as in section	318
5122.01 of the Revised Code.	319
(44) "Psychologist" has the same meaning as in section	320
4732.01 of the Revised Code.	321
(45) "Residential camp" means a program in which the care,	322
physical custody, or control of children is accepted overnight for	323

recreational or recreational and educational purposes. 324

(46) "Residential care facility" means an institution, 325  
residence, or facility that is licensed by the department of 326  
mental health under section 5119.22 of the Revised Code and that 327  
provides care for a child. 328

(47) "Residential facility" means a home or facility that is 329  
licensed by the department of developmental disabilities under 330  
section 5123.19 of the Revised Code and in which a child with a 331  
developmental disability resides. 332

(48) "Residual parental rights, privileges, and 333  
responsibilities" means those rights, privileges, and 334  
responsibilities remaining with the natural parent after the 335  
transfer of legal custody of the child, including, but not 336  
necessarily limited to, the privilege of reasonable visitation, 337  
consent to adoption, the privilege to determine the child's 338  
religious affiliation, and the responsibility for support. 339

(49) "School day" means the school day established by the 340  
state board of education pursuant to section 3313.48 of the 341  
Revised Code. 342

(50) "School month" and "school year" have the same meanings 343  
as in section 3313.62 of the Revised Code. 344

(51) "Secure correctional facility" means a facility under 345  
the direction of the department of youth services that is designed 346  
to physically restrict the movement and activities of children and 347  
used for the placement of children after adjudication and 348  
disposition. 349

(52) "Sexual activity" has the same meaning as in section 350  
2907.01 of the Revised Code. 351

(53) "Shelter" means the temporary care of children in 352  
physically unrestricted facilities pending court adjudication or 353

disposition. 354

(54) "Shelter for victims of domestic violence" has the same 355  
meaning as in section 3113.33 of the Revised Code. 356

(55) "Temporary custody" means legal custody of a child who 357  
is removed from the child's home, which custody may be terminated 358  
at any time at the discretion of the court or, if the legal 359  
custody is granted in an agreement for temporary custody, by the 360  
person who executed the agreement. 361

(56) "Traditional response" means a public children services 362  
agency's response to a report of child abuse or neglect that 363  
encourages engagement of the family in a comprehensive evaluation 364  
of the child's current and future safety needs and a fact-finding 365  
process to determine whether child abuse or neglect occurred and 366  
the circumstances surrounding the alleged harm or risk of harm. 367

(C) For the purposes of this chapter, a child shall be 368  
presumed abandoned when the parents of the child have failed to 369  
visit or maintain contact with the child for more than ninety 370  
days, regardless of whether the parents resume contact with the 371  
child after that period of ninety days. 372

**Sec. 2151.23.** (A) The juvenile court has exclusive original 373  
jurisdiction under the Revised Code as follows: 374

(1) Concerning any child who on or about the date specified 375  
in the complaint, indictment, or information is alleged to have 376  
violated section 2151.87 of the Revised Code or an order issued 377  
under that section or to be a juvenile traffic offender or a 378  
delinquent, unruly, abused, neglected, or dependent child and, 379  
based on and in relation to the allegation pertaining to the 380  
child, concerning the parent, guardian, or other person having 381  
care of a child who is alleged to be an unruly or delinquent child 382  
for being an habitual or chronic truant; 383

(2) Subject to divisions (G), (K), and (V) of section 2301.03	384
of the Revised Code, to determine the custody of any child not a	385
ward of another court of this state;	386
(3) To hear and determine any application for a writ of	387
habeas corpus involving the custody of a child;	388
(4) To exercise the powers and jurisdiction given the probate	389
division of the court of common pleas in Chapter 5122. of the	390
Revised Code, if the court has probable cause to believe that a	391
child otherwise within the jurisdiction of the court is a mentally	392
ill person subject to <del>hospitalization</del> by court order, as defined	393
in section 5122.01 of the Revised Code;	394
(5) To hear and determine all criminal cases charging adults	395
with the violation of any section of this chapter;	396
(6) To hear and determine all criminal cases in which an	397
adult is charged with a violation of division (C) of section	398
2919.21, division (B)(1) of section 2919.22, section 2919.222,	399
division (B) of section 2919.23, or section 2919.24 of the Revised	400
Code, provided the charge is not included in an indictment that	401
also charges the alleged adult offender with the commission of a	402
felony arising out of the same actions that are the basis of the	403
alleged violation of division (C) of section 2919.21, division	404
(B)(1) of section 2919.22, section 2919.222, division (B) of	405
section 2919.23, or section 2919.24 of the Revised Code;	406
(7) Under the interstate compact on juveniles in section	407
2151.56 of the Revised Code;	408
(8) Concerning any child who is to be taken into custody	409
pursuant to section 2151.31 of the Revised Code, upon being	410
notified of the intent to take the child into custody and the	411
reasons for taking the child into custody;	412
(9) To hear and determine requests for the extension of	413
temporary custody agreements, and requests for court approval of	414

permanent custody agreements, that are filed pursuant to section	415
5103.15 of the Revised Code;	416
(10) To hear and determine applications for consent to marry	417
pursuant to section 3101.04 of the Revised Code;	418
(11) Subject to divisions (G), (K), and (V) of section	419
2301.03 of the Revised Code, to hear and determine a request for	420
an order for the support of any child if the request is not	421
ancillary to an action for divorce, dissolution of marriage,	422
annulment, or legal separation, a criminal or civil action	423
involving an allegation of domestic violence, or an action for	424
support brought under Chapter 3115. of the Revised Code;	425
(12) Concerning an action commenced under section 121.38 of	426
the Revised Code;	427
(13) To hear and determine violations of section 3321.38 of	428
the Revised Code;	429
(14) To exercise jurisdiction and authority over the parent,	430
guardian, or other person having care of a child alleged to be a	431
delinquent child, unruly child, or juvenile traffic offender,	432
based on and in relation to the allegation pertaining to the	433
child;	434
(15) To conduct the hearings, and to make the determinations,	435
adjudications, and orders authorized or required under sections	436
2152.82 to 2152.86 and Chapter 2950. of the Revised Code regarding	437
a child who has been adjudicated a delinquent child and to refer	438
the duties conferred upon the juvenile court judge under sections	439
2152.82 to 2152.86 and Chapter 2950. of the Revised Code to	440
magistrates appointed by the juvenile court judge in accordance	441
with Juvenile Rule 40;	442
(16) To hear and determine a petition for a protection order	443
against a child under section 2151.34 or 3113.31 of the Revised	444
Code and to enforce a protection order issued or a consent	445

agreement approved under either section against a child until a 446  
date certain but not later than the date the child attains 447  
nineteen years of age. 448

(B) Except as provided in divisions (G) and (I) of section 449  
2301.03 of the Revised Code, the juvenile court has original 450  
jurisdiction under the Revised Code: 451

(1) To hear and determine all cases of misdemeanors charging 452  
adults with any act or omission with respect to any child, which 453  
act or omission is a violation of any state law or any municipal 454  
ordinance; 455

(2) To determine the paternity of any child alleged to have 456  
been born out of wedlock pursuant to sections 3111.01 to 3111.18 457  
of the Revised Code; 458

(3) Under the uniform interstate family support act in 459  
Chapter 3115. of the Revised Code; 460

(4) To hear and determine an application for an order for the 461  
support of any child, if the child is not a ward of another court 462  
of this state; 463

(5) To hear and determine an action commenced under section 464  
3111.28 of the Revised Code; 465

(6) To hear and determine a motion filed under section 466  
3119.961 of the Revised Code; 467

(7) To receive filings under section 3109.74 of the Revised 468  
Code, and to hear and determine actions arising under sections 469  
3109.51 to 3109.80 of the Revised Code. 470

(8) To enforce an order for the return of a child made under 471  
the Hague Convention on the Civil Aspects of International Child 472  
Abduction pursuant to section 3127.32 of the Revised Code; 473

(9) To grant any relief normally available under the laws of 474  
this state to enforce a child custody determination made by a 475



court of another state and registered in accordance with section 476  
3127.35 of the Revised Code. 477

(C) The juvenile court, except as to juvenile courts that are 478  
a separate division of the court of common pleas or a separate and 479  
independent juvenile court, has jurisdiction to hear, determine, 480  
and make a record of any action for divorce or legal separation 481  
that involves the custody or care of children and that is filed in 482  
the court of common pleas and certified by the court of common 483  
pleas with all the papers filed in the action to the juvenile 484  
court for trial, provided that no certification of that nature 485  
shall be made to any juvenile court unless the consent of the 486  
juvenile judge first is obtained. After a certification of that 487  
nature is made and consent is obtained, the juvenile court shall 488  
proceed as if the action originally had been begun in that court, 489  
except as to awards for spousal support or support due and unpaid 490  
at the time of certification, over which the juvenile court has no 491  
jurisdiction. 492

(D) The juvenile court, except as provided in divisions (G) 493  
and (I) of section 2301.03 of the Revised Code, has jurisdiction 494  
to hear and determine all matters as to custody and support of 495  
children duly certified by the court of common pleas to the 496  
juvenile court after a divorce decree has been granted, including 497  
jurisdiction to modify the judgment and decree of the court of 498  
common pleas as the same relate to the custody and support of 499  
children. 500

(E) The juvenile court, except as provided in divisions (G) 501  
and (I) of section 2301.03 of the Revised Code, has jurisdiction 502  
to hear and determine the case of any child certified to the court 503  
by any court of competent jurisdiction if the child comes within 504  
the jurisdiction of the juvenile court as defined by this section. 505

(F)(1) The juvenile court shall exercise its jurisdiction in 506  
child custody matters in accordance with sections 3109.04 and 507

3127.01 to 3127.53 of the Revised Code and, as applicable, 508  
sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised 509  
Code. 510

(2) The juvenile court shall exercise its jurisdiction in 511  
child support matters in accordance with section 3109.05 of the 512  
Revised Code. 513

(G) Any juvenile court that makes or modifies an order for 514  
child support shall comply with Chapters 3119., 3121., 3123., and 515  
3125. of the Revised Code. If any person required to pay child 516  
support under an order made by a juvenile court on or after April 517  
15, 1985, or modified on or after December 1, 1986, is found in 518  
contempt of court for failure to make support payments under the 519  
order, the court that makes the finding, in addition to any other 520  
penalty or remedy imposed, shall assess all court costs arising 521  
out of the contempt proceeding against the person and require the 522  
person to pay any reasonable attorney's fees of any adverse party, 523  
as determined by the court, that arose in relation to the act of 524  
contempt. 525

(H) If a child who is charged with an act that would be an 526  
offense if committed by an adult was fourteen years of age or 527  
older and under eighteen years of age at the time of the alleged 528  
act and if the case is transferred for criminal prosecution 529  
pursuant to section 2152.12 of the Revised Code, except as 530  
provided in section 2152.121 of the Revised Code, the juvenile 531  
court does not have jurisdiction to hear or determine the case 532  
subsequent to the transfer. The court to which the case is 533  
transferred for criminal prosecution pursuant to that section has 534  
jurisdiction subsequent to the transfer to hear and determine the 535  
case in the same manner as if the case originally had been 536  
commenced in that court, subject to section 2152.121 of the 537  
Revised Code, including, but not limited to, jurisdiction to 538  
accept a plea of guilty or another plea authorized by Criminal 539

Rule 11 or another section of the Revised Code and jurisdiction to 540  
accept a verdict and to enter a judgment of conviction pursuant to 541  
the Rules of Criminal Procedure against the child for the 542  
commission of the offense that was the basis of the transfer of 543  
the case for criminal prosecution, whether the conviction is for 544  
the same degree or a lesser degree of the offense charged, for the 545  
commission of a lesser-included offense, or for the commission of 546  
another offense that is different from the offense charged. 547

(I) If a person under eighteen years of age allegedly commits 548  
an act that would be a felony if committed by an adult and if the 549  
person is not taken into custody or apprehended for that act until 550  
after the person attains twenty-one years of age, the juvenile 551  
court does not have jurisdiction to hear or determine any portion 552  
of the case charging the person with committing that act. In those 553  
circumstances, divisions (A) and (B) of section 2152.12 of the 554  
Revised Code do not apply regarding the act, and the case charging 555  
the person with committing the act shall be a criminal prosecution 556  
commenced and heard in the appropriate court having jurisdiction 557  
of the offense as if the person had been eighteen years of age or 558  
older when the person committed the act. All proceedings 559  
pertaining to the act shall be within the jurisdiction of the 560  
court having jurisdiction of the offense, and that court has all 561  
the authority and duties in the case that it has in other criminal 562  
cases in that court. 563

(J) In exercising its exclusive original jurisdiction under 564  
division (A)(16) of this section with respect to any proceedings 565  
brought under section 2151.34 or 3113.31 of the Revised Code in 566  
which the respondent is a child, the juvenile court retains all 567  
dispositionary powers consistent with existing rules of juvenile 568  
procedure and may also exercise its discretion to adjudicate 569  
proceedings as provided in sections 2151.34 and 3113.31 of the 570  
Revised Code, including the issuance of protection orders or the 571

approval of consent agreements under those sections. 572

**Sec. 2923.125.** (A) Upon the request of a person who wishes to 573  
obtain a license to carry a concealed handgun or to renew a 574  
license to carry a concealed handgun, a sheriff, as provided in 575  
division (I) of this section, shall provide to the person free of 576  
charge an application form and the web site address at which the 577  
pamphlet described in division (B) of section 109.731 of the 578  
Revised Code may be found. A sheriff shall accept a completed 579  
application form and the fee, items, materials, and information 580  
specified in divisions (B)(1) to (5) of this section at the times 581  
and in the manners described in division (I) of this section. 582

(B) An applicant for a license to carry a concealed handgun 583  
shall submit a completed application form and all of the following 584  
to the sheriff of the county in which the applicant resides or to 585  
the sheriff of any county adjacent to the county in which the 586  
applicant resides: 587

(1)(a) A nonrefundable license fee as described in either of 588  
the following: 589

(i) For an applicant who has been a resident of this state 590  
for five or more years, a fee of sixty-seven dollars; 591

(ii) For an applicant who has been a resident of this state 592  
for less than five years, a fee of sixty-seven dollars plus the 593  
actual cost of having a background check performed by the federal 594  
bureau of investigation. 595

(b) No sheriff shall require an applicant to pay for the cost 596  
of a background check performed by the bureau of criminal 597  
identification and investigation. 598

(c) A sheriff shall waive the payment of the license fee 599  
described in division (B)(1)(a) of this section in connection with 600  
an initial or renewal application for a license that is submitted 601

by an applicant who is a retired peace officer, a retired person 602  
described in division (B)(1)(b) of section 109.77 of the Revised 603  
Code, or a retired federal law enforcement officer who, prior to 604  
retirement, was authorized under federal law to carry a firearm in 605  
the course of duty, unless the retired peace officer, person, or 606  
federal law enforcement officer retired as the result of a mental 607  
disability. 608

(d) The sheriff shall deposit all fees paid by an applicant 609  
under division (B)(1)(a) of this section into the sheriff's 610  
concealed handgun license issuance fund established pursuant to 611  
section 311.42 of the Revised Code. The county shall distribute 612  
the fees in accordance with section 311.42 of the Revised Code. 613

(2) A color photograph of the applicant that was taken within 614  
thirty days prior to the date of the application; 615

(3) One or more of the following competency certifications, 616  
each of which shall reflect that, regarding a certification 617  
described in division (B)(3)(a), (b), (c), (e), or (f) of this 618  
section, within the three years immediately preceding the 619  
application the applicant has performed that to which the 620  
competency certification relates and that, regarding a 621  
certification described in division (B)(3)(d) of this section, the 622  
applicant currently is an active or reserve member of the armed 623  
forces of the United States or within the six years immediately 624  
preceding the application the honorable discharge or retirement to 625  
which the competency certification relates occurred: 626

(a) An original or photocopy of a certificate of completion 627  
of a firearms safety, training, or requalification or firearms 628  
safety instructor course, class, or program that was offered by or 629  
under the auspices of the national rifle association and that 630  
complies with the requirements set forth in division (G) of this 631  
section; 632

(b) An original or photocopy of a certificate of completion 633  
of a firearms safety, training, or requalification or firearms 634  
safety instructor course, class, or program that satisfies all of 635  
the following criteria: 636

(i) It was open to members of the general public. 637

(ii) It utilized qualified instructors who were certified by 638  
the national rifle association, the executive director of the Ohio 639  
peace officer training commission pursuant to section 109.75 or 640  
109.78 of the Revised Code, or a governmental official or entity 641  
of another state. 642

(iii) It was offered by or under the auspices of a law 643  
enforcement agency of this or another state or the United States, 644  
a public or private college, university, or other similar 645  
postsecondary educational institution located in this or another 646  
state, a firearms training school located in this or another 647  
state, or another type of public or private entity or organization 648  
located in this or another state. 649

(iv) It complies with the requirements set forth in division 650  
(G) of this section. 651

(c) An original or photocopy of a certificate of completion 652  
of a state, county, municipal, or department of natural resources 653  
peace officer training school that is approved by the executive 654  
director of the Ohio peace officer training commission pursuant to 655  
section 109.75 of the Revised Code and that complies with the 656  
requirements set forth in division (G) of this section, or the 657  
applicant has satisfactorily completed and been issued a 658  
certificate of completion of a basic firearms training program, a 659  
firearms requalification training program, or another basic 660  
training program described in section 109.78 or 109.801 of the 661  
Revised Code that complies with the requirements set forth in 662  
division (G) of this section; 663

(d) A document that evidences both of the following: 664

(i) That the applicant is an active or reserve member of the 665  
armed forces of the United States, was honorably discharged from 666  
military service in the active or reserve armed forces of the 667  
United States, is a retired trooper of the state highway patrol, 668  
or is a retired peace officer or federal law enforcement officer 669  
described in division (B)(1) of this section or a retired person 670  
described in division (B)(1)(b) of section 109.77 of the Revised 671  
Code and division (B)(1) of this section; 672

(ii) That, through participation in the military service or 673  
through the former employment described in division (B)(3)(d)(i) 674  
of this section, the applicant acquired experience with handling 675  
handguns or other firearms, and the experience so acquired was 676  
equivalent to training that the applicant could have acquired in a 677  
course, class, or program described in division (B)(3)(a), (b), or 678  
(c) of this section. 679

(e) A certificate or another similar document that evidences 680  
satisfactory completion of a firearms training, safety, or 681  
requalification or firearms safety instructor course, class, or 682  
program that is not otherwise described in division (B)(3)(a), 683  
(b), (c), or (d) of this section, that was conducted by an 684  
instructor who was certified by an official or entity of the 685  
government of this or another state or the United States or by the 686  
national rifle association, and that complies with the 687  
requirements set forth in division (G) of this section; 688

(f) An affidavit that attests to the applicant's satisfactory 689  
completion of a course, class, or program described in division 690  
(B)(3)(a), (b), (c), or (e) of this section and that is subscribed 691  
by the applicant's instructor or an authorized representative of 692  
the entity that offered the course, class, or program or under 693  
whose auspices the course, class, or program was offered. 694

(4) A certification by the applicant that the applicant has read the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters.

(5) A set of fingerprints of the applicant provided as described in section 311.41 of the Revised Code through use of an electronic fingerprint reading device or, if the sheriff to whom the application is submitted does not possess and does not have ready access to the use of such a reading device, on a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code.

(C) Upon receipt of an applicant's completed application form, supporting documentation, and, if not waived, license fee, a sheriff, in the manner specified in section 311.41 of the Revised Code, shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code.

(D)(1) Except as provided in division (D)(3) or (4) of this section, within forty-five days after a sheriff's receipt of an applicant's completed application form for a license to carry a concealed handgun, the supporting documentation, and, if not waived, the license fee, the sheriff shall make available through the law enforcement automated data system in accordance with division (H) of this section the information described in that division and, upon making the information available through the system, shall issue to the applicant a license to carry a concealed handgun that shall expire as described in division (D)(2)(a) of this section if all of the following apply:

(a) The applicant is legally living in the United States, has been a resident of this state for at least forty-five days, and has been a resident of the county in which the person seeks the



license or a county adjacent to the county in which the person 727  
seeks the license for at least thirty days. For purposes of 728  
division (D)(1)(a) of this section: 729

(i) If a person is absent from the United States, from this 730  
state, or from a particular county in this state in compliance 731  
with military or naval orders as an active or reserve member of 732  
the armed forces of the United States and if prior to leaving this 733  
state in compliance with those orders the person was legally 734  
living in the United States and was a resident of this state, the 735  
person, solely by reason of that absence, shall not be considered 736  
to have lost the person's status as living in the United States or 737  
the person's residence in this state or in the county in which the 738  
person was a resident prior to leaving this state in compliance 739  
with those orders, without regard to whether or not the person 740  
intends to return to this state or to that county, shall not be 741  
considered to have acquired a residence in any other state, and 742  
shall not be considered to have become a resident of any other 743  
state. 744

(ii) If a person is present in this state in compliance with 745  
military or naval orders as an active or reserve member of the 746  
armed forces of the United States for at least forty-five days, 747  
the person shall be considered to have been a resident of this 748  
state for that period of at least forty-five days, and, if a 749  
person is present in a county of this state in compliance with 750  
military or naval orders as an active or reserve member of the 751  
armed forces of the United States for at least thirty days, the 752  
person shall be considered to have been a resident of that county 753  
for that period of at least thirty days. 754

(b) The applicant is at least twenty-one years of age. 755

(c) The applicant is not a fugitive from justice. 756

(d) The applicant is not under indictment for or otherwise 757

charged with a felony; an offense under Chapter 2925., 3719., or 758  
4729. of the Revised Code that involves the illegal possession, 759  
use, sale, administration, or distribution of or trafficking in a 760  
drug of abuse; a misdemeanor offense of violence; or a violation 761  
of section 2903.14 or 2923.1211 of the Revised Code. 762

(e) Except as otherwise provided in division (D)(5) of this 763  
section, the applicant has not been convicted of or pleaded guilty 764  
to a felony or an offense under Chapter 2925., 3719., or 4729. of 765  
the Revised Code that involves the illegal possession, use, sale, 766  
administration, or distribution of or trafficking in a drug of 767  
abuse; has not been adjudicated a delinquent child for committing 768  
an act that if committed by an adult would be a felony or would be 769  
an offense under Chapter 2925., 3719., or 4729. of the Revised 770  
Code that involves the illegal possession, use, sale, 771  
administration, or distribution of or trafficking in a drug of 772  
abuse; and has not been convicted of, pleaded guilty to, or 773  
adjudicated a delinquent child for committing a violation of 774  
section 2903.13 of the Revised Code when the victim of the 775  
violation is a peace officer, regardless of whether the applicant 776  
was sentenced under division (C)(3) of that section. 777

(f) Except as otherwise provided in division (D)(5) of this 778  
section, the applicant, within three years of the date of the 779  
application, has not been convicted of or pleaded guilty to a 780  
misdemeanor offense of violence other than a misdemeanor violation 781  
of section 2921.33 of the Revised Code or a violation of section 782  
2903.13 of the Revised Code when the victim of the violation is a 783  
peace officer, or a misdemeanor violation of section 2923.1211 of 784  
the Revised Code; and has not been adjudicated a delinquent child 785  
for committing an act that if committed by an adult would be a 786  
misdemeanor offense of violence other than a misdemeanor violation 787  
of section 2921.33 of the Revised Code or a violation of section 788  
2903.13 of the Revised Code when the victim of the violation is a 789

peace officer or for committing an act that if committed by an 790  
adult would be a misdemeanor violation of section 2923.1211 of the 791  
Revised Code. 792

(g) Except as otherwise provided in division (D)(1)(e) of 793  
this section, the applicant, within five years of the date of the 794  
application, has not been convicted of, pleaded guilty to, or 795  
adjudicated a delinquent child for committing two or more 796  
violations of section 2903.13 or 2903.14 of the Revised Code. 797

(h) Except as otherwise provided in division (D)(5) of this 798  
section, the applicant, within ten years of the date of the 799  
application, has not been convicted of, pleaded guilty to, or 800  
adjudicated a delinquent child for committing a violation of 801  
section 2921.33 of the Revised Code. 802

(i) The applicant has not been adjudicated as a mental 803  
defective, has not been committed to any mental institution, is 804  
not under adjudication of mental incompetence, has not been found 805  
by a court to be a mentally ill person subject to ~~hospitalization~~ 806  
~~by~~ court order, and is not an involuntary patient other than one 807  
who is a patient only for purposes of observation. As used in this 808  
division, "mentally ill person subject to ~~hospitalization~~ by court 809  
order" and "patient" have the same meanings as in section 5122.01 810  
of the Revised Code. 811

(j) The applicant is not currently subject to a civil 812  
protection order, a temporary protection order, or a protection 813  
order issued by a court of another state. 814

(k) The applicant certifies that the applicant desires a 815  
legal means to carry a concealed handgun for defense of the 816  
applicant or a member of the applicant's family while engaged in 817  
lawful activity. 818

(l) The applicant submits a competency certification of the 819  
type described in division (B)(3) of this section and submits a 820

certification of the type described in division (B)(4) of this 821  
section regarding the applicant's reading of the pamphlet prepared 822  
by the Ohio peace officer training commission pursuant to section 823  
109.731 of the Revised Code. 824

(m) The applicant currently is not subject to a suspension 825  
imposed under division (A)(2) of section 2923.128 of the Revised 826  
Code of a license to carry a concealed handgun, or a temporary 827  
emergency license to carry a concealed handgun, that previously 828  
was issued to the applicant under this section or section 829  
2923.1213 of the Revised Code. 830

(2)(a) A license to carry a concealed handgun that a sheriff 831  
issues under division (D)(1) of this section on or after March 14, 832  
2007, shall expire five years after the date of issuance. A 833  
license to carry a concealed handgun that a sheriff issued under 834  
division (D)(1) of this section prior to March 14, 2007, shall 835  
expire four years after the date of issuance. 836

If a sheriff issues a license under this section, the sheriff 837  
shall place on the license a unique combination of letters and 838  
numbers identifying the license in accordance with the procedure 839  
prescribed by the Ohio peace officer training commission pursuant 840  
to section 109.731 of the Revised Code. 841

(b) If a sheriff denies an application under this section 842  
because the applicant does not satisfy the criteria described in 843  
division (D)(1) of this section, the sheriff shall specify the 844  
grounds for the denial in a written notice to the applicant. The 845  
applicant may appeal the denial pursuant to section 119.12 of the 846  
Revised Code in the county served by the sheriff who denied the 847  
application. If the denial was as a result of the criminal records 848  
check conducted pursuant to section 311.41 of the Revised Code and 849  
if, pursuant to section 2923.127 of the Revised Code, the 850  
applicant challenges the criminal records check results using the 851  
appropriate challenge and review procedure specified in that 852

section, the time for filing the appeal pursuant to section 119.12 853  
of the Revised Code and this division is tolled during the 854  
pendency of the request or the challenge and review. If the court 855  
in an appeal under section 119.12 of the Revised Code and this 856  
division enters a judgment sustaining the sheriff's refusal to 857  
grant to the applicant a license to carry a concealed handgun, the 858  
applicant may file a new application beginning one year after the 859  
judgment is entered. If the court enters a judgment in favor of 860  
the applicant, that judgment shall not restrict the authority of a 861  
sheriff to suspend or revoke the license pursuant to section 862  
2923.128 or 2923.1213 of the Revised Code or to refuse to renew 863  
the license for any proper cause that may occur after the date the 864  
judgment is entered. In the appeal, the court shall have full 865  
power to dispose of all costs. 866

(3) If the sheriff with whom an application for a license to 867  
carry a concealed handgun was filed under this section becomes 868  
aware that the applicant has been arrested for or otherwise 869  
charged with an offense that would disqualify the applicant from 870  
holding the license, the sheriff shall suspend the processing of 871  
the application until the disposition of the case arising from the 872  
arrest or charge. 873

(4) If the sheriff determines that the applicant is legally 874  
living in the United States and is a resident of the county in 875  
which the applicant seeks the license or of an adjacent county but 876  
does not yet meet the residency requirements described in division 877  
(D)(1)(a) of this section, the sheriff shall not deny the license 878  
because of the residency requirements but shall not issue the 879  
license until the applicant meets those residency requirements. 880

(5) If an applicant has been convicted of or pleaded guilty 881  
to an offense identified in division (D)(1)(e), (f), or (h) of 882  
this section or has been adjudicated a delinquent child for 883  
committing an act or violation identified in any of those 884

divisions, and if a court has ordered the sealing or expungement 885  
of the records of that conviction, guilty plea, or adjudication 886  
pursuant to sections 2151.355 to 2151.358, sections 2953.31 to 887  
2953.36, or section 2953.37 of the Revised Code or a court has 888  
granted the applicant relief pursuant to section 2923.14 of the 889  
Revised Code from the disability imposed pursuant to section 890  
2923.13 of the Revised Code relative to that conviction, guilty 891  
plea, or adjudication, the sheriff with whom the application was 892  
submitted shall not consider the conviction, guilty plea, or 893  
adjudication in making a determination under division (D)(1) or 894  
(F) of this section or, in relation to an application for a 895  
temporary emergency license to carry a concealed handgun submitted 896  
under section 2923.1213 of the Revised Code, in making a 897  
determination under division (B)(2) of that section. 898

(E) If a license to carry a concealed handgun issued under 899  
this section is lost or is destroyed, the licensee may obtain from 900  
the sheriff who issued that license a duplicate license upon the 901  
payment of a fee of fifteen dollars and the submission of an 902  
affidavit attesting to the loss or destruction of the license. The 903  
sheriff, in accordance with the procedures prescribed in section 904  
109.731 of the Revised Code, shall place on the replacement 905  
license a combination of identifying numbers different from the 906  
combination on the license that is being replaced. 907

(F)(1) A licensee who wishes to renew a license to carry a 908  
concealed handgun issued under this section shall do so not 909  
earlier than ninety days before the expiration date of the license 910  
or at any time after the expiration date of the license by filing 911  
with the sheriff of the county in which the applicant resides or 912  
with the sheriff of an adjacent county an application for renewal 913  
of the license obtained pursuant to division (D) of this section, 914  
a certification by the applicant that, subsequent to the issuance 915  
of the license, the applicant has reread the pamphlet prepared by 916

the Ohio peace officer training commission pursuant to section 917  
109.731 of the Revised Code that reviews firearms, dispute 918  
resolution, and use of deadly force matters, a nonrefundable 919  
license renewal fee in an amount determined pursuant to division 920  
(F)(4) of this section unless the fee is waived, and one of the 921  
following: 922

(a) If the licensee previously has not renewed a license to 923  
carry a concealed handgun issued under this section, proof that 924  
the licensee at one time had a competency certification of the 925  
type described in division (B)(3) of this section. A valid 926  
license, expired license, or any other previously issued license 927  
that has not been revoked is prima-facie evidence that the 928  
licensee at one time had a competency certification of the type 929  
described in division (B)(3) of this section. 930

(b) If the licensee previously has renewed a license to carry 931  
a concealed handgun issued under this section, a renewed 932  
competency certification of the type described in division (G)(4) 933  
of this section. 934

(2) A sheriff shall accept a completed renewal application, 935  
the license renewal fee, and information specified in division 936  
(F)(1) of this section at the times and in the manners described 937  
in division (I) of this section. Upon receipt of a completed 938  
renewal application, of certification that the applicant has 939  
reread the specified pamphlet prepared by the Ohio peace officer 940  
training commission, of proof of a prior competency certification 941  
for an initial renewal or of a renewed competency certification 942  
for a second or subsequent renewal, and of a license renewal fee 943  
unless the fee is waived, a sheriff, in the manner specified in 944  
section 311.41 of the Revised Code shall conduct or cause to be 945  
conducted the criminal records check and the incompetency records 946  
check described in section 311.41 of the Revised Code. The sheriff 947  
shall renew the license if the sheriff determines that the 948

applicant continues to satisfy the requirements described in 949  
division (D)(1) of this section, except that the applicant is not 950  
required to meet the requirements of division (D)(1)(1) of this 951  
section. A renewed license that is renewed on or after March 14, 952  
2007, shall expire five years after the date of issuance, and a 953  
renewed license that is renewed prior to March 14, 2007, shall 954  
expire four years after the date of issuance. A renewed license is 955  
subject to division (E) of this section and sections 2923.126 and 956  
2923.128 of the Revised Code. A sheriff shall comply with 957  
divisions (D)(2) to (4) of this section when the circumstances 958  
described in those divisions apply to a requested license renewal. 959  
If a sheriff denies the renewal of a license to carry a concealed 960  
handgun, the applicant may appeal the denial, or challenge the 961  
criminal record check results that were the basis of the denial if 962  
applicable, in the same manner as specified in division (D)(2)(b) 963  
of this section and in section 2923.127 of the Revised Code, 964  
regarding the denial of a license under this section. 965

(3) A renewal application submitted pursuant to division (F) 966  
of this section shall only require the licensee to list on the 967  
application form information and matters occurring since the date 968  
of the licensee's last application for a license pursuant to 969  
division (B) or (F) of this section. A sheriff conducting the 970  
criminal records check and the incompetency records check 971  
described in section 311.41 of the Revised Code shall conduct the 972  
check only from the date of the licensee's last application for a 973  
license pursuant to division (B) or (F) of this section through 974  
the date of the renewal application submitted pursuant to division 975  
(F) of this section. 976

(4) An applicant for a renewal license to carry a concealed 977  
handgun shall submit to the sheriff of the county in which the 978  
applicant resides or to the sheriff of any county adjacent to the 979  
county in which the applicant resides a nonrefundable license fee 980



as described in either of the following:	981
(a) For an applicant who has been a resident of this state for five or more years, a fee of fifty dollars;	982 983
(b) For an applicant who has been a resident of this state for less than five years, a fee of fifty dollars plus the actual cost of having a background check performed by the federal bureau of investigation.	984 985 986 987
(G)(1) Each course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section shall provide to each person who takes the course, class, or program the web site address at which the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters may be found. Each such course, class, or program described in one of those divisions shall include at least twelve hours of training in the safe handling and use of a firearm that shall include all of the following:	988 989 990 991 992 993 994 995 996 997
(a) At least ten hours of training on the following matters:	998
(i) The ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and ammunition;	999 1000 1001
(ii) The ability to demonstrate and explain how to handle ammunition in a safe manner;	1002 1003
(iii) The ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner;	1004 1005
(iv) Gun handling training.	1006
(b) At least two hours of training that consists of range time and live-fire training.	1007 1008
(2) To satisfactorily complete the course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section,	1009 1010

the applicant shall pass a competency examination that shall 1011  
include both of the following: 1012

(a) A written section on the ability to name and explain the 1013  
rules for the safe handling of a handgun and proper storage 1014  
practices for handguns and ammunition; 1015

(b) A physical demonstration of competence in the use of a 1016  
handgun and in the rules for safe handling and storage of a 1017  
handgun and a physical demonstration of the attitude necessary to 1018  
shoot a handgun in a safe manner. 1019

(3) The competency certification described in division 1020  
(B)(3)(a), (b), (c), or (e) of this section shall be dated and 1021  
shall attest that the course, class, or program the applicant 1022  
successfully completed met the requirements described in division 1023  
(G)(1) of this section and that the applicant passed the 1024  
competency examination described in division (G)(2) of this 1025  
section. 1026

(4) A person who previously has received a competency 1027  
certification as described in division (B)(3) of this section, or 1028  
who previously has received a renewed competency certification as 1029  
described in this division, may obtain a renewed competency 1030  
certification pursuant to this division. If the person previously 1031  
has received a competency certification or previously has received 1032  
a renewed competency certification, the person may obtain a 1033  
renewed competency certification from an entity that offers a 1034  
course, class, or program described in division (B)(3)(a), (b), 1035  
(c), or (e) of this section by passing a test that demonstrates 1036  
that the person is range competent. In these circumstances, the 1037  
person is not required to attend the course, class, or program or 1038  
to take the competency examination described in division (G)(2) of 1039  
this section for the renewed competency certification in order to 1040  
be eligible to receive a renewed competency certification. A 1041  
renewed competency certification issued under this division shall 1042

be dated and shall attest that the person has demonstrated range competency. 1043  
1044

(H) Upon deciding to issue a license, deciding to issue a replacement license, or deciding to renew a license to carry a concealed handgun pursuant to this section, and before actually issuing or renewing the license, the sheriff shall make available through the law enforcement automated data system all information contained on the license. If the license subsequently is suspended under division (A)(1) or (2) of section 2923.128 of the Revised Code, revoked pursuant to division (B)(1) of section 2923.128 of the Revised Code, or lost or destroyed, the sheriff also shall make available through the law enforcement automated data system a notation of that fact. The superintendent of the state highway patrol shall ensure that the law enforcement automated data system is so configured as to permit the transmission through the system of the information specified in this division. 1045  
1046  
1047  
1048  
1049  
1050  
1051  
1052  
1053  
1054  
1055  
1056  
1057  
1058

(I) A sheriff shall accept a completed application form or renewal application, and the fee, items, materials, and information specified in divisions (B)(1) to (5) or division (F) of this section, whichever is applicable, and shall provide an application form or renewal application to any person during at least fifteen hours a week and shall provide the web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found at any time, upon request. The sheriff shall post notice of the hours during which the sheriff is available to accept or provide the information described in this division. 1059  
1060  
1061  
1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069

**Sec. 2923.1213.** (A) As used in this section: 1070

(1) "Evidence of imminent danger" means any of the following: 1071

(a) A statement sworn by the person seeking to carry a concealed handgun that is made under threat of perjury and that 1072  
1073

states that the person has reasonable cause to fear a criminal 1074  
attack upon the person or a member of the person's family, such as 1075  
would justify a prudent person in going armed; 1076

(b) A written document prepared by a governmental entity or 1077  
public official describing the facts that give the person seeking 1078  
to carry a concealed handgun reasonable cause to fear a criminal 1079  
attack upon the person or a member of the person's family, such as 1080  
would justify a prudent person in going armed. Written documents 1081  
of this nature include, but are not limited to, any temporary 1082  
protection order, civil protection order, protection order issued 1083  
by another state, or other court order, any court report, and any 1084  
report filed with or made by a law enforcement agency or 1085  
prosecutor. 1086

(2) "Prosecutor" has the same meaning as in section 2935.01 1087  
of the Revised Code. 1088

(B)(1) A person seeking a temporary emergency license to 1089  
carry a concealed handgun shall submit to the sheriff of the 1090  
county in which the person resides all of the following: 1091

(a) Evidence of imminent danger to the person or a member of 1092  
the person's family; 1093

(b) A sworn affidavit that contains all of the information 1094  
required to be on the license and attesting that the person is 1095  
legally living in the United States; is at least twenty-one years 1096  
of age; is not a fugitive from justice; is not under indictment 1097  
for or otherwise charged with an offense identified in division 1098  
(D)(1)(d) of section 2923.125 of the Revised Code; has not been 1099  
convicted of or pleaded guilty to an offense, and has not been 1100  
adjudicated a delinquent child for committing an act, identified 1101  
in division (D)(1)(e) of that section and to which division (B)(3) 1102  
of this section does not apply; within three years of the date of 1103  
the submission, has not been convicted of or pleaded guilty to an 1104

offense, and has not been adjudicated a delinquent child for 1105  
committing an act, identified in division (D)(1)(f) of that 1106  
section and to which division (B)(3) of this section does not 1107  
apply; within five years of the date of the submission, has not 1108  
been convicted of, pleaded guilty, or adjudicated a delinquent 1109  
child for committing two or more violations identified in division 1110  
(D)(1)(g) of that section; within ten years of the date of the 1111  
submission, has not been convicted of, pleaded guilty, or 1112  
adjudicated a delinquent child for committing a violation 1113  
identified in division (D)(1)(h) of that section and to which 1114  
division (B)(3) of this section does not apply; has not been 1115  
adjudicated as a mental defective, has not been committed to any 1116  
mental institution, is not under adjudication of mental 1117  
incompetence, has not been found by a court to be a mentally ill 1118  
person subject to ~~hospitalization by~~ court order, and is not an 1119  
involuntary patient other than one who is a patient only for 1120  
purposes of observation, as described in division (D)(1)(i) of 1121  
that section; is not currently subject to a civil protection 1122  
order, a temporary protection order, or a protection order issued 1123  
by a court of another state, as described in division (D)(1)(j) of 1124  
that section; and is not currently subject to a suspension imposed 1125  
under division (A)(2) of section 2923.128 of the Revised Code of a 1126  
license to carry a concealed handgun, or a temporary emergency 1127  
license to carry a concealed handgun, that previously was issued 1128  
to the person; 1129

(c) A nonrefundable temporary emergency license fee as 1130  
described in either of the following: 1131

(i) For an applicant who has been a resident of this state 1132  
for five or more years, a fee of fifteen dollars plus the actual 1133  
cost of having a background check performed by the bureau of 1134  
criminal identification and investigation pursuant to section 1135  
311.41 of the Revised Code; 1136

(ii) For an applicant who has been a resident of this state 1137  
for less than five years, a fee of fifteen dollars plus the actual 1138  
cost of having background checks performed by the federal bureau 1139  
of investigation and the bureau of criminal identification and 1140  
investigation pursuant to section 311.41 of the Revised Code. 1141

(d) A set of fingerprints of the applicant provided as 1142  
described in section 311.41 of the Revised Code through use of an 1143  
electronic fingerprint reading device or, if the sheriff to whom 1144  
the application is submitted does not possess and does not have 1145  
ready access to the use of an electronic fingerprint reading 1146  
device, on a standard impression sheet prescribed pursuant to 1147  
division (C)(2) of section 109.572 of the Revised Code. If the 1148  
fingerprints are provided on a standard impression sheet, the 1149  
person also shall provide the person's social security number to 1150  
the sheriff. 1151

(2) A sheriff shall accept the evidence of imminent danger, 1152  
the sworn affidavit, the fee, and the set of fingerprints required 1153  
under division (B)(1) of this section at the times and in the 1154  
manners described in division (I) of this section. Upon receipt of 1155  
the evidence of imminent danger, the sworn affidavit, the fee, and 1156  
the set of fingerprints required under division (B)(1) of this 1157  
section, the sheriff, in the manner specified in section 311.41 of 1158  
the Revised Code, immediately shall conduct or cause to be 1159  
conducted the criminal records check and the incompetency records 1160  
check described in section 311.41 of the Revised Code. Immediately 1161  
upon receipt of the results of the records checks, the sheriff 1162  
shall review the information and shall determine whether the 1163  
criteria set forth in divisions (D)(1)(a) to (j) and (m) of 1164  
section 2923.125 of the Revised Code apply regarding the person. 1165  
If the sheriff determines that all of criteria set forth in 1166  
divisions (D)(1)(a) to (j) and (m) of section 2923.125 of the 1167  
Revised Code apply regarding the person, the sheriff shall 1168

immediately make available through the law enforcement automated 1169  
data system all information that will be contained on the 1170  
temporary emergency license for the person if one is issued, and 1171  
the superintendent of the state highway patrol shall ensure that 1172  
the system is so configured as to permit the transmission through 1173  
the system of that information. Upon making that information 1174  
available through the law enforcement automated data system, the 1175  
sheriff shall immediately issue to the person a temporary 1176  
emergency license to carry a concealed handgun. 1177

If the sheriff denies the issuance of a temporary emergency 1178  
license to the person, the sheriff shall specify the grounds for 1179  
the denial in a written notice to the person. The person may 1180  
appeal the denial, or challenge criminal records check results 1181  
that were the basis of the denial if applicable, in the same 1182  
manners specified in division (D)(2) of section 2923.125 and in 1183  
section 2923.127 of the Revised Code, regarding the denial of an 1184  
application for a license to carry a concealed handgun under that 1185  
section. 1186

The temporary emergency license under this division shall be 1187  
in the form, and shall include all of the information, described 1188  
in divisions (A)(2) and (5) of section 109.731 of the Revised 1189  
Code, and also shall include a unique combination of identifying 1190  
letters and numbers in accordance with division (A)(4) of that 1191  
section. 1192

The temporary emergency license issued under this division is 1193  
valid for ninety days and may not be renewed. A person who has 1194  
been issued a temporary emergency license under this division 1195  
shall not be issued another temporary emergency license unless at 1196  
least four years has expired since the issuance of the prior 1197  
temporary emergency license. 1198

(3) If a person seeking a temporary emergency license to 1199  
carry a concealed handgun has been convicted of or pleaded guilty 1200

to an offense identified in division (D)(1)(e), (f), or (h) of 1201  
section 2923.125 of the Revised Code or has been adjudicated a 1202  
delinquent child for committing an act or violation identified in 1203  
any of those divisions, and if a court has ordered the sealing or 1204  
expungement of the records of that conviction, guilty plea, or 1205  
adjudication pursuant to sections 2151.355 to 2151.358 or sections 1206  
2953.31 to 2953.36 of the Revised Code or a court has granted the 1207  
applicant relief pursuant to section 2923.14 of the Revised Code 1208  
from the disability imposed pursuant to section 2923.13 of the 1209  
Revised Code relative to that conviction, guilty plea, or 1210  
adjudication, the conviction, guilty plea, or adjudication shall 1211  
not be relevant for purposes of the sworn affidavit described in 1212  
division (B)(1)(b) of this section, and the person may complete, 1213  
and swear to the truth of, the affidavit as if the conviction, 1214  
guilty plea, or adjudication never had occurred. 1215

(4) The sheriff shall waive the payment pursuant to division 1216  
(B)(1)(c) of this section of the license fee in connection with an 1217  
application that is submitted by an applicant who is a retired 1218  
peace officer, a retired person described in division (B)(1)(b) of 1219  
section 109.77 of the Revised Code, or a retired federal law 1220  
enforcement officer who, prior to retirement, was authorized under 1221  
federal law to carry a firearm in the course of duty, unless the 1222  
retired peace officer, person, or federal law enforcement officer 1223  
retired as the result of a mental disability. 1224

The sheriff shall deposit all fees paid by an applicant under 1225  
division (B)(1)(c) of this section into the sheriff's concealed 1226  
handgun license issuance fund established pursuant to section 1227  
311.42 of the Revised Code. 1228

(C) A person who holds a temporary emergency license to carry 1229  
a concealed handgun has the same right to carry a concealed 1230  
handgun as a person who was issued a license to carry a concealed 1231  
handgun under section 2923.125 of the Revised Code, and any 1232



exceptions to the prohibitions contained in section 1547.69 and 1233  
sections 2923.12 to 2923.16 of the Revised Code for a licensee 1234  
under section 2923.125 of the Revised Code apply to a licensee 1235  
under this section. The person is subject to the same 1236  
restrictions, and to all other procedures, duties, and sanctions, 1237  
that apply to a person who carries a license issued under section 1238  
2923.125 of the Revised Code, other than the license renewal 1239  
procedures set forth in that section. 1240

(D) A sheriff who issues a temporary emergency license to 1241  
carry a concealed handgun under this section shall not require a 1242  
person seeking to carry a concealed handgun in accordance with 1243  
this section to submit a competency certificate as a prerequisite 1244  
for issuing the license and shall comply with division (H) of 1245  
section 2923.125 of the Revised Code in regards to the license. 1246  
The sheriff shall suspend or revoke the license in accordance with 1247  
section 2923.128 of the Revised Code. In addition to the 1248  
suspension or revocation procedures set forth in section 2923.128 1249  
of the Revised Code, the sheriff may revoke the license upon 1250  
receiving information, verifiable by public documents, that the 1251  
person is not eligible to possess a firearm under either the laws 1252  
of this state or of the United States or that the person committed 1253  
perjury in obtaining the license; if the sheriff revokes a license 1254  
under this additional authority, the sheriff shall notify the 1255  
person, by certified mail, return receipt requested, at the 1256  
person's last known residence address that the license has been 1257  
revoked and that the person is required to surrender the license 1258  
at the sheriff's office within ten days of the date on which the 1259  
notice was mailed. Division (H) of section 2923.125 of the Revised 1260  
Code applies regarding any suspension or revocation of a temporary 1261  
emergency license to carry a concealed handgun. 1262

(E) A sheriff who issues a temporary emergency license to 1263  
carry a concealed handgun under this section shall retain, for the 1264

entire period during which the temporary emergency license is in 1265  
effect, the evidence of imminent danger that the person submitted 1266  
to the sheriff and that was the basis for the license, or a copy 1267  
of that evidence, as appropriate. 1268

(F) If a temporary emergency license to carry a concealed 1269  
handgun issued under this section is lost or is destroyed, the 1270  
licensee may obtain from the sheriff who issued that license a 1271  
duplicate license upon the payment of a fee of fifteen dollars and 1272  
the submission of an affidavit attesting to the loss or 1273  
destruction of the license. The sheriff, in accordance with the 1274  
procedures prescribed in section 109.731 of the Revised Code, 1275  
shall place on the replacement license a combination of 1276  
identifying numbers different from the combination on the license 1277  
that is being replaced. 1278

(G) The Ohio peace officer training commission shall 1279  
prescribe, and shall make available to sheriffs, a standard form 1280  
to be used under division (B) of this section by a person who 1281  
applies for a temporary emergency license to carry a concealed 1282  
handgun on the basis of imminent danger of a type described in 1283  
division (A)(1)(a) of this section. 1284

(H) A sheriff who receives any fees paid by a person under 1285  
this section shall deposit all fees so paid into the sheriff's 1286  
concealed handgun license issuance expense fund established under 1287  
section 311.42 of the Revised Code. 1288

(I) A sheriff shall accept evidence of imminent danger, a 1289  
sworn affidavit, the fee, and the set of fingerprints specified in 1290  
division (B)(1) of this section at any time during normal business 1291  
hours. In no case shall a sheriff require an appointment, or 1292  
designate a specific period of time, for the submission or 1293  
acceptance of evidence of imminent danger, a sworn affidavit, the 1294  
fee, and the set of fingerprints specified in division (B)(1) of 1295  
this section, or for the provision to any person of a standard 1296

form to be used for a person to apply for a temporary emergency 1297  
license to carry a concealed handgun. 1298

**Sec. 2923.13.** (A) Unless relieved from disability as provided 1299  
in section 2923.14 of the Revised Code, no person shall knowingly 1300  
acquire, have, carry, or use any firearm or dangerous ordnance, if 1301  
any of the following apply: 1302

(1) The person is a fugitive from justice. 1303

(2) The person is under indictment for or has been convicted 1304  
of any felony offense of violence or has been adjudicated a 1305  
delinquent child for the commission of an offense that, if 1306  
committed by an adult, would have been a felony offense of 1307  
violence. 1308

(3) The person is under indictment for or has been convicted 1309  
of any felony offense involving the illegal possession, use, sale, 1310  
administration, distribution, or trafficking in any drug of abuse 1311  
or has been adjudicated a delinquent child for the commission of 1312  
an offense that, if committed by an adult, would have been a 1313  
felony offense involving the illegal possession, use, sale, 1314  
administration, distribution, or trafficking in any drug of abuse. 1315

(4) The person is drug dependent, in danger of drug 1316  
dependence, or a chronic alcoholic. 1317

(5) The person is under adjudication of mental incompetence, 1318  
has been adjudicated as a mental defective, has been committed to 1319  
a mental institution, has been found by a court to be a mentally 1320  
ill person subject to ~~hospitalization by~~ court order, or is an 1321  
involuntary patient other than one who is a patient only for 1322  
purposes of observation. As used in this division, "mentally ill 1323  
person subject to ~~hospitalization by~~ court order" and "patient" 1324  
have the same meanings as in section 5122.01 of the Revised Code. 1325

(B) Whoever violates this section is guilty of having weapons 1326

while under disability, a felony of the third degree. 1327

**Sec. 2945.37.** (A) As used in sections 2945.37 to 2945.402 of 1328  
the Revised Code: 1329

(1) "Prosecutor" means a prosecuting attorney or a city 1330  
director of law, village solicitor, or similar chief legal officer 1331  
of a municipal corporation who has authority to prosecute a 1332  
criminal case that is before the court or the criminal case in 1333  
which a defendant in a criminal case has been found incompetent to 1334  
stand trial or not guilty by reason of insanity. 1335

(2) "Examiner" means either of the following: 1336

(a) A psychiatrist or a licensed clinical psychologist who 1337  
satisfies the criteria of division (I)(1) of section 5122.01 of 1338  
the Revised Code or is employed by a certified forensic center 1339  
designated by the department of mental health to conduct 1340  
examinations or evaluations. 1341

(b) For purposes of a separate mental retardation evaluation 1342  
that is ordered by a court pursuant to division (H) of section 1343  
2945.371 of the Revised Code, a psychologist designated by the 1344  
director of developmental disabilities pursuant to that section to 1345  
conduct that separate mental retardation evaluation. 1346

(3) "Nonsecured status" means any unsupervised, off-grounds 1347  
movement or trial visit from a hospital or institution, or any 1348  
conditional release, that is granted to a person who is found 1349  
incompetent to stand trial and is committed pursuant to section 1350  
2945.39 of the Revised Code or to a person who is found not guilty 1351  
by reason of insanity and is committed pursuant to section 2945.40 1352  
of the Revised Code. 1353

(4) "Unsupervised, off-grounds movement" includes only 1354  
off-grounds privileges that are unsupervised and that have an 1355  
expectation of return to the hospital or institution on a daily 1356

basis. 1357

(5) "Trial visit" means a patient privilege of a longer 1358  
stated duration of unsupervised community contact with an 1359  
expectation of return to the hospital or institution at designated 1360  
times. 1361

(6) "Conditional release" means a commitment status under 1362  
which the trial court at any time may revoke a person's 1363  
conditional release and order the rehospitalization or 1364  
reinstitutionalization of the person as described in division (A) 1365  
of section 2945.402 of the Revised Code and pursuant to which a 1366  
person who is found incompetent to stand trial or a person who is 1367  
found not guilty by reason of insanity lives and receives 1368  
treatment in the community for a period of time that does not 1369  
exceed the maximum prison term or term of imprisonment that the 1370  
person could have received for the offense in question had the 1371  
person been convicted of the offense instead of being found 1372  
incompetent to stand trial on the charge of the offense or being 1373  
found not guilty by reason of insanity relative to the offense. 1374

(7) "Licensed clinical psychologist," "mentally ill person 1375  
subject to ~~hospitalization~~ by court order," and "psychiatrist" 1376  
have the same meanings as in section 5122.01 of the Revised Code. 1377

(8) "Mentally retarded person subject to institutionalization 1378  
by court order" has the same meaning as in section 5123.01 of the 1379  
Revised Code. 1380

(B) In a criminal action in a court of common pleas, a county 1381  
court, or a municipal court, the court, prosecutor, or defense may 1382  
raise the issue of the defendant's competence to stand trial. If 1383  
the issue is raised before the trial has commenced, the court 1384  
shall hold a hearing on the issue as provided in this section. If 1385  
the issue is raised after the trial has commenced, the court shall 1386  
hold a hearing on the issue only for good cause shown or on the 1387

court's own motion. 1388

(C) The court shall conduct the hearing required or 1389  
authorized under division (B) of this section within thirty days 1390  
after the issue is raised, unless the defendant has been referred 1391  
for evaluation in which case the court shall conduct the hearing 1392  
within ten days after the filing of the report of the evaluation 1393  
or, in the case of a defendant who is ordered by the court 1394  
pursuant to division (H) of section 2945.371 of the Revised Code 1395  
to undergo a separate mental retardation evaluation conducted by a 1396  
psychologist designated by the director of developmental 1397  
disabilities, within ten days after the filing of the report of 1398  
the separate mental retardation evaluation under that division. A 1399  
hearing may be continued for good cause. 1400

(D) The defendant shall be represented by counsel at the 1401  
hearing conducted under division (C) of this section. If the 1402  
defendant is unable to obtain counsel, the court shall appoint 1403  
counsel under Chapter 120. of the Revised Code or under the 1404  
authority recognized in division (C) of section 120.06, division 1405  
(E) of section 120.16, division (E) of section 120.26, or section 1406  
2941.51 of the Revised Code before proceeding with the hearing. 1407

(E) The prosecutor and defense counsel may submit evidence on 1408  
the issue of the defendant's competence to stand trial. A written 1409  
report of the evaluation of the defendant may be admitted into 1410  
evidence at the hearing by stipulation, but, if either the 1411  
prosecution or defense objects to its admission, the report may be 1412  
admitted under sections 2317.36 to 2317.38 of the Revised Code or 1413  
any other applicable statute or rule. 1414

(F) The court shall not find a defendant incompetent to stand 1415  
trial solely because the defendant is receiving or has received 1416  
treatment as a voluntary or involuntary mentally ill patient under 1417  
Chapter 5122. or a voluntary or involuntary mentally retarded 1418  
resident under Chapter 5123. of the Revised Code or because the 1419

defendant is receiving or has received psychotropic drugs or other medication, even if the defendant might become incompetent to stand trial without the drugs or medication.

(G) A defendant is presumed to be competent to stand trial. If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the court shall find the defendant incompetent to stand trial and shall enter an order authorized by section 2945.38 of the Revised Code.

(H) Municipal courts shall follow the procedures set forth in sections 2945.37 to 2945.402 of the Revised Code. Except as provided in section 2945.371 of the Revised Code, a municipal court shall not order an evaluation of the defendant's competence to stand trial or the defendant's mental condition at the time of the commission of the offense to be conducted at any hospital operated by the department of mental health. Those evaluations shall be performed through community resources including, but not limited to, certified forensic centers, court probation departments, and community mental health agencies. All expenses of the evaluations shall be borne by the legislative authority of the municipal court, as defined in section 1901.03 of the Revised Code, and shall be taxed as costs in the case. If a defendant is found incompetent to stand trial or not guilty by reason of insanity, a municipal court may commit the defendant as provided in sections 2945.38 to 2945.402 of the Revised Code.

**Sec. 2945.38.** (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant

shall be proceeded against as provided by law. If the court finds 1451  
the defendant competent to stand trial and the defendant is 1452  
receiving psychotropic drugs or other medication, the court may 1453  
authorize the continued administration of the drugs or medication 1454  
or other appropriate treatment in order to maintain the 1455  
defendant's competence to stand trial, unless the defendant's 1456  
attending physician advises the court against continuation of the 1457  
drugs, other medication, or treatment. 1458

(B)(1)(a) If, after taking into consideration all relevant 1459  
reports, information, and other evidence, the court finds that the 1460  
defendant is incompetent to stand trial and that there is a 1461  
substantial probability that the defendant will become competent 1462  
to stand trial within one year if the defendant is provided with a 1463  
course of treatment, the court shall order the defendant to 1464  
undergo treatment. If the defendant has been charged with a felony 1465  
offense and if, after taking into consideration all relevant 1466  
reports, information, and other evidence, the court finds that the 1467  
defendant is incompetent to stand trial, but the court is unable 1468  
at that time to determine whether there is a substantial 1469  
probability that the defendant will become competent to stand 1470  
trial within one year if the defendant is provided with a course 1471  
of treatment, the court shall order continuing evaluation and 1472  
treatment of the defendant for a period not to exceed four months 1473  
to determine whether there is a substantial probability that the 1474  
defendant will become competent to stand trial within one year if 1475  
the defendant is provided with a course of treatment. 1476

(b) The court order for the defendant to undergo treatment or 1477  
continuing evaluation and treatment under division (B)(1)(a) of 1478  
this section shall specify that the defendant, if determined to 1479  
require mental health treatment or continuing evaluation and 1480  
treatment, shall be committed to the department of mental health 1481  
for treatment or continuing evaluation and treatment at a 1482



hospital, facility, or agency, as determined to be clinically 1483  
appropriate by the department of mental health and, if determined 1484  
to require treatment or continuing evaluation and treatment for a 1485  
developmental disability, shall receive treatment or continuing 1486  
evaluation and treatment at an institution or facility operated by 1487  
the department of developmental disabilities, at a facility 1488  
certified by the department of developmental disabilities as being 1489  
qualified to treat mental retardation, at a public or private 1490  
community mental retardation facility, or by a mental retardation 1491  
professional. The order may restrict the defendant's freedom of 1492  
movement as the court considers necessary. The prosecutor in the 1493  
defendant's case shall send to the chief clinical officer of the 1494  
hospital, facility, or agency where the defendant is placed by the 1495  
department of mental health, or to the managing officer of the 1496  
institution, the director of the facility, or the person to which 1497  
the defendant is committed, copies of relevant police reports and 1498  
other background information that pertains to the defendant and is 1499  
available to the prosecutor unless the prosecutor determines that 1500  
the release of any of the information in the police reports or any 1501  
of the other background information to unauthorized persons would 1502  
interfere with the effective prosecution of any person or would 1503  
create a substantial risk of harm to any person. 1504

In committing the defendant to the department of mental 1505  
health, the court shall consider the extent to which the person is 1506  
a danger to the person and to others, the need for security, and 1507  
the type of crime involved and, if the court finds that 1508  
restrictions on the defendant's freedom of movement are necessary, 1509  
shall specify the least restrictive limitations on the person's 1510  
freedom of movement determined to be necessary to protect public 1511  
safety. In determining commitment alternatives for defendants 1512  
determined to require treatment or continuing evaluation and 1513  
treatment for developmental disabilities, the court shall consider 1514  
the extent to which the person is a danger to the person and to 1515

others, the need for security, and the type of crime involved and 1516  
shall order the least restrictive alternative available that is 1517  
consistent with public safety and treatment goals. In weighing 1518  
these factors, the court shall give preference to protecting 1519  
public safety. 1520

(c) If the defendant is found incompetent to stand trial, if 1521  
the chief clinical officer of the hospital, facility, or agency 1522  
where the defendant is placed, or the managing officer of the 1523  
institution, the director of the facility, or the person to which 1524  
the defendant is committed for treatment or continuing evaluation 1525  
and treatment under division (B)(1)(b) of this section determines 1526  
that medication is necessary to restore the defendant's competency 1527  
to stand trial, and if the defendant lacks the capacity to give 1528  
informed consent or refuses medication, the chief clinical officer 1529  
of the hospital, facility, or agency where the defendant is 1530  
placed, or the managing officer of the institution, the director 1531  
of the facility, or the person to which the defendant is committed 1532  
for treatment or continuing evaluation and treatment may petition 1533  
the court for authorization for the involuntary administration of 1534  
medication. The court shall hold a hearing on the petition within 1535  
five days of the filing of the petition if the petition was filed 1536  
in a municipal court or a county court regarding an incompetent 1537  
defendant charged with a misdemeanor or within ten days of the 1538  
filing of the petition if the petition was filed in a court of 1539  
common pleas regarding an incompetent defendant charged with a 1540  
felony offense. Following the hearing, the court may authorize the 1541  
involuntary administration of medication or may dismiss the 1542  
petition. 1543

(d) If the defendant is charged with a misdemeanor offense 1544  
that is not an offense of violence, the prosecutor may hold the 1545  
charges in abeyance while the defendant engages in mental health 1546  
treatment or developmental disability services. 1547

(2) 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 shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to ~~hospitalization by~~ court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree; 1579  
1580

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree. 1581  
1582  
1583  
1584

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section; 1585  
1586  
1587

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree; 1588  
1589  
1590

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor. 1591  
1592  
1593

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 1594  
1595  
1596  
1597

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health with restrictions on the defendant's freedom of movement or is committed to an institution or facility for the treatment of developmental disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under 1598  
1599  
1600  
1601  
1602  
1603  
1604  
1605  
1606  
1607  
1608  
1609

division (B)(1)(a) of this section informs the court that the 1610  
treatment or continuing evaluation and treatment cannot be 1611  
provided at the hospital or facility where the defendant is placed 1612  
by the department of mental health or the institution or facility 1613  
to which the defendant is committed. The chief clinical officer of 1614  
the hospital or facility where the defendant is placed by the 1615  
department of mental health or the managing officer of the 1616  
institution or director of the facility to which the defendant is 1617  
committed, or a designee of any of those persons, may grant a 1618  
defendant movement to a medical facility for an emergency medical 1619  
situation with appropriate supervision to ensure the safety of the 1620  
defendant, staff, and community during that emergency medical 1621  
situation. The chief clinical officer of the hospital or facility 1622  
where the defendant is placed by the department of mental health 1623  
or the managing officer of the institution or director of the 1624  
facility to which the defendant is committed shall notify the 1625  
court within twenty-four hours of the defendant's movement to the 1626  
medical facility for an emergency medical situation under this 1627  
division. 1628

(F) The person who supervises the treatment or continuing 1629  
evaluation and treatment of a defendant ordered to undergo 1630  
treatment or continuing evaluation and treatment under division 1631  
(B)(1)(a) of this section shall file a written report with the 1632  
court at the following times: 1633

(1) Whenever the person believes the defendant is capable of 1634  
understanding the nature and objective of the proceedings against 1635  
the defendant and of assisting in the defendant's defense; 1636

(2) For a felony offense, fourteen days before expiration of 1637  
the maximum time for treatment as specified in division (C) of 1638  
this section and fourteen days before the expiration of the 1639  
maximum time for continuing evaluation and treatment as specified 1640  
in division (B)(1)(a) of this section, and, for a misdemeanor 1641

offense, ten days before the expiration of the maximum time for  
treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or  
continuing evaluation and treatment of a defendant ordered under  
division (B)(1)(a) of this section believes 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.

(G) A report under division (F) of this section shall contain  
the examiner's findings, the facts in reasonable detail on which  
the findings are based, and the examiner's opinion as to the  
defendant's capability of understanding the nature and objective  
of the proceedings against the defendant and of assisting in the  
defendant's defense. If, in the examiner's opinion, the defendant  
remains incapable of understanding the nature and objective of the  
proceedings against the defendant and of assisting in the  
defendant's defense and there is a substantial probability that  
the defendant will become capable of understanding the nature and  
objective of the proceedings against the defendant and of  
assisting in the defendant's defense if the defendant is provided  
with a course of treatment, if in the examiner's opinion the  
defendant remains mentally ill or mentally retarded, and if the  
maximum time for treatment as specified in division (C) of this  
section has not expired, the report also shall contain the  
examiner's recommendation as to the least restrictive placement or  
commitment alternative that is consistent with the defendant's  
treatment needs for restoration to competency and with the safety  
of the community. The court shall provide copies of the report to  
the prosecutor and defense counsel.

(H) If a defendant is committed pursuant to division (B)(1)

of this section, within ten days after the treating physician of 1674  
the defendant or the examiner of the defendant who is employed or 1675  
retained by the treating facility advises that there is not a 1676  
substantial probability that the defendant will become capable of 1677  
understanding the nature and objective of the proceedings against 1678  
the defendant or of assisting in the defendant's defense even if 1679  
the defendant is provided with a course of treatment, within ten 1680  
days after the expiration of the maximum time for treatment as 1681  
specified in division (C) of this section, within ten days after 1682  
the expiration of the maximum time for continuing evaluation and 1683  
treatment as specified in division (B)(1)(a) of this section, 1684  
within thirty days after a defendant's request for a hearing that 1685  
is made after six months of treatment, or within thirty days after 1686  
being advised by the treating physician or examiner that the 1687  
defendant is competent to stand trial, whichever is the earliest, 1688  
the court shall conduct another hearing to determine if the 1689  
defendant is competent to stand trial and shall do whichever of 1690  
the following is applicable: 1691

(1) If the court finds that the defendant is competent to 1692  
stand trial, the defendant shall be proceeded against as provided 1693  
by law. 1694

(2) If the court finds that the defendant is incompetent to 1695  
stand trial, but that there is a substantial probability that the 1696  
defendant will become competent to stand trial if the defendant is 1697  
provided with a course of treatment, and the maximum time for 1698  
treatment as specified in division (C) of this section has not 1699  
expired, the court, after consideration of the examiner's 1700  
recommendation, shall order that treatment be continued, may 1701  
change the least restrictive limitations on the defendant's 1702  
freedom of movement, and, if applicable, shall specify whether the 1703  
treatment for developmental disabilities is to be continued at the 1704  
same or a different facility or institution. 1705

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, 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 for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) 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 felony other than a felony listed in division (C)(1) of this section, 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 for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person



to which the defendant is committed or admitted shall do all of 1738  
the following: 1739

(i) Notify the prosecutor, in writing, of the discharge of 1740  
the defendant, send the notice at least ten days prior to the 1741  
discharge unless the discharge is by the probate court, and state 1742  
in the notice the date on which the defendant will be discharged; 1743

(ii) Notify the prosecutor, in writing, when the defendant is 1744  
absent without leave or is granted unsupervised, off-grounds 1745  
movement, and send this notice promptly after the discovery of the 1746  
absence without leave or prior to the granting of the 1747  
unsupervised, off-grounds movement, whichever is applicable; 1748

(iii) Notify the prosecutor, in writing, of the change of the 1749  
defendant's commitment or admission to voluntary status, send the 1750  
notice promptly upon learning of the change to voluntary status, 1751  
and state in the notice the date on which the defendant was 1752  
committed or admitted on a voluntary status. 1753

(b) Upon receiving notice that the defendant will be granted 1754  
unsupervised, off-grounds movement, the prosecutor either shall 1755  
re-indict the defendant or promptly notify the court that the 1756  
prosecutor does not intend to prosecute the charges against the 1757  
defendant. 1758

(I) If a defendant is convicted of a crime and sentenced to a 1759  
jail or workhouse, the defendant's sentence shall be reduced by 1760  
the total number of days the defendant is confined for evaluation 1761  
to determine the defendant's competence to stand trial or 1762  
treatment under this section and sections 2945.37 and 2945.371 of 1763  
the Revised Code or by the total number of days the defendant is 1764  
confined for evaluation to determine the defendant's mental 1765  
condition at the time of the offense charged. 1766

**Sec. 2945.39.** (A) If a defendant who is charged with an 1767

offense described in division (C)(1) of section 2945.38 of the Revised Code is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of that section or after 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, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing, the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant,

the court may consider all relevant evidence, including, but not 1799  
limited to, any relevant psychiatric, psychological, or medical 1800  
testimony or reports, the acts constituting the offense charged, 1801  
and any history of the defendant that is relevant to the 1802  
defendant's ability to conform to the law. 1803

(C) If the court conducts a hearing as described in division 1804  
(A)(2) of this section and if the court does not make both 1805  
findings described in divisions (A)(2)(a) and (b) of this section 1806  
by clear and convincing evidence, the court shall dismiss the 1807  
indictment, information, or complaint against the defendant. Upon 1808  
the dismissal, the court shall discharge the defendant unless the 1809  
court or prosecutor files an affidavit in probate court for civil 1810  
commitment of the defendant pursuant to Chapter 5122. or 5123. of 1811  
the Revised Code. If the court or prosecutor files an affidavit 1812  
for civil commitment, the court may order that the defendant be 1813  
detained for up to ten days pending the civil commitment. If the 1814  
probate court commits the defendant subsequent to the court's or 1815  
prosecutor's filing of an affidavit for civil commitment, the 1816  
chief clinical officer of the entity, hospital, or facility, the 1817  
managing officer of the institution, or the person to which the 1818  
defendant is committed or admitted shall send to the prosecutor 1819  
the notices described in divisions (H)(4)(a)(i) to (iii) of 1820  
section 2945.38 of the Revised Code within the periods of time and 1821  
under the circumstances specified in those divisions. A dismissal 1822  
of charges under this division is not a bar to further criminal 1823  
proceedings based on the same conduct. 1824

(D)(1) If the court conducts a hearing as described in 1825  
division (A)(2) of this section and if the court makes the 1826  
findings described in divisions (A)(2)(a) and (b) of this section 1827  
by clear and convincing evidence, the court shall commit the 1828  
defendant, if determined to require mental health treatment, to 1829  
the department of mental health for treatment at a hospital, 1830

facility, or agency as determined clinically appropriate by the 1831  
department of mental health or, if determined to require treatment 1832  
for developmental disabilities, to a facility operated by the 1833  
department of developmental disabilities, or another facility, as 1834  
appropriate. In committing the defendant to the department of 1835  
mental health, the court shall specify the least restrictive 1836  
limitations on the defendant's freedom of movement determined to 1837  
be necessary to protect public safety. In determining the place 1838  
and nature of the commitment to a facility operated by the 1839  
department of developmental disabilities or another facility for 1840  
treatment of developmental disabilities, the court shall order the 1841  
least restrictive commitment alternative available that is 1842  
consistent with public safety and the welfare of the defendant. In 1843  
weighing these factors, the court shall give preference to 1844  
protecting public safety. 1845

(2) If a court makes a commitment of a defendant under 1846  
division (D)(1) of this section, the prosecutor shall send to the 1847  
hospital, facility, or agency where the defendant is placed by the 1848  
department of mental health or to the defendant's place of 1849  
commitment all reports of the defendant's current mental condition 1850  
and, except as otherwise provided in this division, any other 1851  
relevant information, including, but not limited to, a transcript 1852  
of the hearing held pursuant to division (A)(2) of this section, 1853  
copies of relevant police reports, and copies of any prior arrest 1854  
and conviction records that pertain to the defendant and that the 1855  
prosecutor possesses. The prosecutor shall send the reports of the 1856  
defendant's current mental condition in every case of commitment, 1857  
and, unless the prosecutor determines that the release of any of 1858  
the other relevant information to unauthorized persons would 1859  
interfere with the effective prosecution of any person or would 1860  
create a substantial risk of harm to any person, the prosecutor 1861  
also shall send the other relevant information. 1862

(3) If a court makes a commitment under division (D)(1) of 1863  
this section, all further proceedings shall be in accordance with 1864  
sections 2945.401 and 2945.402 of the Revised Code. 1865

**Sec. 2945.40.** (A) If a person is found not guilty by reason 1866  
of insanity, the verdict shall state that finding, and the trial 1867  
court shall conduct a full hearing to determine whether the person 1868  
is a mentally ill person subject to ~~hospitalization by~~ court order 1869  
or a mentally retarded person subject to institutionalization by 1870  
court order. Prior to the hearing, if the trial judge believes 1871  
that there is probable cause that the person found not guilty by 1872  
reason of insanity is a mentally ill person subject to 1873  
~~hospitalization by~~ court order or mentally retarded person subject 1874  
to institutionalization by court order, the trial judge may issue 1875  
a temporary order of detention for that person to remain in effect 1876  
for ten court days or until the hearing, whichever occurs first. 1877

Any person detained pursuant to a temporary order of 1878  
detention issued under this division shall be held in a suitable 1879  
facility, taking into consideration the place and type of 1880  
confinement prior to and during trial. 1881

(B) The court shall hold the hearing under division (A) of 1882  
this section to determine whether the person found not guilty by 1883  
reason of insanity is a mentally ill person subject to 1884  
~~hospitalization by~~ court order or a mentally retarded person 1885  
subject to institutionalization by court order within ten court 1886  
days after the finding of not guilty by reason of insanity. 1887  
Failure to conduct the hearing within the ten-day period shall 1888  
cause the immediate discharge of the respondent, unless the judge 1889  
grants a continuance for not longer than ten court days for good 1890  
cause shown or for any period of time upon motion of the 1891  
respondent. 1892

(C) If a person is found not guilty by reason of insanity, 1893

the person has the right to attend all hearings conducted pursuant 1894  
to sections 2945.37 to 2945.402 of the Revised Code. At any 1895  
hearing conducted pursuant to one of those sections, the court 1896  
shall inform the person that the person has all of the following 1897  
rights: 1898

(1) The right to be represented by counsel and to have that 1899  
counsel provided at public expense if the person is indigent, with 1900  
the counsel to be appointed by the court under Chapter 120. of the 1901  
Revised Code or under the authority recognized in division (C) of 1902  
section 120.06, division (E) of section 120.16, division (E) of 1903  
section 120.26, or section 2941.51 of the Revised Code; 1904

(2) The right to have independent expert evaluation and to 1905  
have that independent expert evaluation provided at public expense 1906  
if the person is indigent; 1907

(3) The right to subpoena witnesses and documents, to present 1908  
evidence on the person's behalf, and to cross-examine witnesses 1909  
against the person; 1910

(4) The right to testify in the person's own behalf and to 1911  
not be compelled to testify; 1912

(5) The right to have copies of any relevant medical or 1913  
mental health document in the custody of the state or of any place 1914  
of commitment other than a document for which the court finds that 1915  
the release to the person of information contained in the document 1916  
would create a substantial risk of harm to any person. 1917

(D) The hearing under division (A) of this section shall be 1918  
open to the public, and the court shall conduct the hearing in 1919  
accordance with the Rules of Civil Procedure. The court shall make 1920  
and maintain a full transcript and record of the hearing 1921  
proceedings. The court may consider all relevant evidence, 1922  
including, but not limited to, any relevant psychiatric, 1923  
psychological, or medical testimony or reports, the acts 1924

constituting the offense in relation to which the person was found 1925  
not guilty by reason of insanity, and any history of the person 1926  
that is relevant to the person's ability to conform to the law. 1927

(E) Upon completion of the hearing under division (A) of this 1928  
section, if the court finds there is not clear and convincing 1929  
evidence that the person is a mentally ill person subject to 1930  
~~hospitalization by~~ court order or a mentally retarded person 1931  
subject to institutionalization by court order, the court shall 1932  
discharge the person, unless a detainer has been placed upon the 1933  
person by the department of rehabilitation and correction, in 1934  
which case the person shall be returned to that department. 1935

(F) If, at the hearing under division (A) of this section, 1936  
the court finds by clear and convincing evidence that the person 1937  
is a mentally ill person subject to ~~hospitalization by~~ court 1938  
order, the court shall commit the person to the department of 1939  
mental health for placement in a hospital, facility, or agency as 1940  
determined clinically appropriate by the department of mental 1941  
health. If, at the hearing under division (A) of this section, the 1942  
court finds by clear and convincing evidence that the person is a 1943  
mentally retarded person subject to institutionalization by court 1944  
order, it shall commit the person to a facility operated by the 1945  
department of developmental disabilities or another facility, as 1946  
appropriate. Further proceedings shall be in accordance with 1947  
sections 2945.401 and 2945.402 of the Revised Code. In committing 1948  
the person to the department of mental health, the court shall 1949  
specify the least restrictive limitations to the defendant's 1950  
freedom of movement determined to be necessary to protect public 1951  
safety. In determining the place and nature of the commitment of a 1952  
mentally retarded person subject to institutionalization by court 1953  
order, the court shall order the least restrictive commitment 1954  
alternative available that is consistent with public safety and 1955  
the welfare of the person. In weighing these factors, the court 1956

shall give preference to protecting public safety. 1957

(G) If a court makes a commitment of a person under division 1958  
(F) of this section, the prosecutor shall send to the hospital, 1959  
facility, or agency where the person is placed by the department 1960  
of mental health or to the defendant's place of commitment all 1961  
reports of the person's current mental condition, and, except as 1962  
otherwise provided in this division, any other relevant 1963  
information, including, but not limited to, a transcript of the 1964  
hearing held pursuant to division (A) of this section, copies of 1965  
relevant police reports, and copies of any prior arrest and 1966  
conviction records that pertain to the person and that the 1967  
prosecutor possesses. The prosecutor shall send the reports of the 1968  
person's current mental condition in every case of commitment, 1969  
and, unless the prosecutor determines that the release of any of 1970  
the other relevant information to unauthorized persons would 1971  
interfere with the effective prosecution of any person or would 1972  
create a substantial risk of harm to any person, the prosecutor 1973  
also shall send the other relevant information. 1974

(H) A person who is committed pursuant to this section shall 1975  
not voluntarily admit the person or be voluntarily admitted to a 1976  
hospital or institution pursuant to section 5122.02, 5122.15, 1977  
5123.69, or 5123.76 of the Revised Code. 1978

**Sec. 2945.401.** (A) A defendant found incompetent to stand 1979  
trial and committed pursuant to section 2945.39 of the Revised 1980  
Code or a person found not guilty by reason of insanity and 1981  
committed pursuant to section 2945.40 of the Revised Code shall 1982  
remain subject to the jurisdiction of the trial court pursuant to 1983  
that commitment, and to the provisions of this section, until the 1984  
final termination of the commitment as described in division 1985  
(J)(1) of this section. If the jurisdiction is terminated under 1986  
this division because of the final termination of the commitment 1987



resulting from the expiration of the maximum prison term or term 1988  
of imprisonment described in division (J)(1)(b) of this section, 1989  
the court or prosecutor may file an affidavit for the civil 1990  
commitment of the defendant or person pursuant to Chapter 5122. or 1991  
5123. of the Revised Code. 1992

(B) A hearing conducted under any provision of sections 1993  
2945.37 to 2945.402 of the Revised Code shall not be conducted in 1994  
accordance with Chapters 5122. and 5123. of the Revised Code. Any 1995  
person who is committed pursuant to section 2945.39 or 2945.40 of 1996  
the Revised Code shall not voluntarily admit the person or be 1997  
voluntarily admitted to a hospital or institution pursuant to 1998  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 1999  
All other provisions of Chapters 5122. and 5123. of the Revised 2000  
Code regarding hospitalization or institutionalization shall apply 2001  
to the extent they are not in conflict with this chapter. A 2002  
commitment under section 2945.39 or 2945.40 of the Revised Code 2003  
shall not be terminated and the conditions of the commitment shall 2004  
not be changed except as otherwise provided in division (D)(2) of 2005  
this section with respect to a mentally retarded person subject to 2006  
institutionalization by court order or except by order of the 2007  
trial court. 2008

(C) The department of mental health or the institution or 2009  
facility to which a defendant or person has been committed under 2010  
section 2945.39 or 2945.40 of the Revised Code shall report in 2011  
writing to the trial court, at the times specified in this 2012  
division, as to whether the defendant or person remains a mentally 2013  
ill person subject to ~~hospitalization~~ by court order or a mentally 2014  
retarded person subject to institutionalization by court order 2015  
and, in the case of a defendant committed under section 2945.39 of 2016  
the Revised Code, as to whether the defendant remains incompetent 2017  
to stand trial. The department, institution, or facility shall 2018  
make the reports after the initial six months of treatment and 2019

every two years after the initial report is made. The trial court shall provide copies of the reports to the prosecutor and to the counsel for the defendant or person. Within thirty days after its receipt pursuant to this division of a report from the department, institution, or facility, the trial court shall hold a hearing on the continued commitment of the defendant or person or on any changes in the conditions of the commitment of the defendant or person. The defendant or person may request a change in the conditions of confinement, and the trial court shall conduct a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of this section, when a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code, at any time after evaluating the risks to public safety and the welfare of the defendant or person, the designee of the department of mental health or the managing officer of the institution or director of the facility to which the defendant or person is committed may recommend a termination of the defendant's or person's commitment or a change in the conditions of the defendant's or person's commitment.

Except as otherwise provided in division (D)(2) of this section, if the designee of the department of mental health recommends on-grounds unsupervised movement, off-grounds supervised movement, or nonsecured status for the defendant or person or termination of the defendant's or person's commitment, the following provisions apply:

(a) If the department's designee recommends on-grounds unsupervised movement or off-grounds supervised movement, the department's designee shall file with the trial court an application for approval of the movement and shall send a copy of the application to the prosecutor. Within fifteen days after

receiving the application, the prosecutor may request a hearing on 2052  
the application and, if a hearing is requested, shall so inform 2053  
the department's designee. If the prosecutor does not request a 2054  
hearing within the fifteen-day period, the trial court shall 2055  
approve the application by entering its order approving the 2056  
requested movement or, within five days after the expiration of 2057  
the fifteen-day period, shall set a date for a hearing on the 2058  
application. If the prosecutor requests a hearing on the 2059  
application within the fifteen-day period, the trial court shall 2060  
hold a hearing on the application within thirty days after the 2061  
hearing is requested. If the trial court, within five days after 2062  
the expiration of the fifteen-day period, sets a date for a 2063  
hearing on the application, the trial court shall hold the hearing 2064  
within thirty days after setting the hearing date. At least 2065  
fifteen days before any hearing is held under this division, the 2066  
trial court shall give the prosecutor written notice of the date, 2067  
time, and place of the hearing. At the conclusion of each hearing 2068  
conducted under this division, the trial court either shall 2069  
approve or disapprove the application and shall enter its order 2070  
accordingly. 2071

(b) If the department's designee recommends termination of 2072  
the defendant's or person's commitment at any time or if the 2073  
department's designee recommends the first of any nonsecured 2074  
status for the defendant or person, the department's designee 2075  
shall send written notice of this recommendation to the trial 2076  
court and to the local forensic center. The local forensic center 2077  
shall evaluate the committed defendant or person and, within 2078  
thirty days after its receipt of the written notice, shall submit 2079  
to the trial court and the department's designee a written report 2080  
of the evaluation. The trial court shall provide a copy of the 2081  
department's designee's written notice and of the local forensic 2082  
center's written report to the prosecutor and to the counsel for 2083  
the defendant or person. Upon the local forensic center's 2084

submission of the report to the trial court and the department's 2085  
designee, all of the following apply: 2086

(i) If the forensic center disagrees with the recommendation 2087  
of the department's designee, it shall inform the department's 2088  
designee and the trial court of its decision and the reasons for 2089  
the decision. The department's designee, after consideration of 2090  
the forensic center's decision, shall either withdraw, proceed 2091  
with, or modify and proceed with the recommendation. If the 2092  
department's designee proceeds with, or modifies and proceeds 2093  
with, the recommendation, the department's designee shall proceed 2094  
in accordance with division (D)(1)(b)(iii) of this section. 2095

(ii) If the forensic center agrees with the recommendation of 2096  
the department's designee, it shall inform the department's 2097  
designee and the trial court of its decision and the reasons for 2098  
the decision, and the department's designee shall proceed in 2099  
accordance with division (D)(1)(b)(iii) of this section. 2100

(iii) If the forensic center disagrees with the 2101  
recommendation of the department's designee and the department's 2102  
designee proceeds with, or modifies and proceeds with, the 2103  
recommendation or if the forensic center agrees with the 2104  
recommendation of the department's designee, the department's 2105  
designee shall work with community mental health agencies, 2106  
programs, facilities, or boards of alcohol, drug addiction, and 2107  
mental health services to develop a plan to implement the 2108  
recommendation. If the defendant or person is on medication, the 2109  
plan shall include, but shall not be limited to, a system to 2110  
monitor the defendant's or person's compliance with the prescribed 2111  
medication treatment plan. The system shall include a schedule 2112  
that clearly states when the defendant or person shall report for 2113  
a medication compliance check. The medication compliance checks 2114  
shall be based upon the effective duration of the prescribed 2115  
medication, taking into account the route by which it is taken, 2116

and shall be scheduled at intervals sufficiently close together to 2117  
detect a potential increase in mental illness symptoms that the 2118  
medication is intended to prevent. 2119

The department's designee shall send the recommendation and 2120  
plan developed under division (D)(1)(b)(iii) of this section, in 2121  
writing, to the trial court, the prosecutor and the counsel for 2122  
the committed defendant or person. The trial court shall conduct a 2123  
hearing on the recommendation and plan developed under division 2124  
(D)(1)(b)(iii) of this section. Divisions (D)(1)(c) and (d) and 2125  
(E) to (J) of this section apply regarding the hearing. 2126

(c) If the department's designee's recommendation is for 2127  
nonsecured status or termination of commitment, the prosecutor may 2128  
obtain an independent expert evaluation of the defendant's or 2129  
person's mental condition, and the trial court may continue the 2130  
hearing on the recommendation for a period of not more than thirty 2131  
days to permit time for the evaluation. 2132

The prosecutor may introduce the evaluation report or present 2133  
other evidence at the hearing in accordance with the Rules of 2134  
Evidence. 2135

(d) The trial court shall schedule the hearing on a 2136  
department's designee's recommendation for nonsecured status or 2137  
termination of commitment and shall give reasonable notice to the 2138  
prosecutor and the counsel for the defendant or person. Unless 2139  
continued for independent evaluation at the prosecutor's request 2140  
or for other good cause, the hearing shall be held within thirty 2141  
days after the trial court's receipt of the recommendation and 2142  
plan. 2143

(2)(a) Division (D)(1) of this section does not apply to 2144  
on-grounds unsupervised movement of a defendant or person who has 2145  
been committed under section 2945.39 or 2945.40 of the Revised 2146  
Code, who is a mentally retarded person subject to 2147

institutionalization by court order, and who is being provided 2148  
residential habilitation, care, and treatment in a facility 2149  
operated by the department of developmental disabilities. 2150

(b) If, pursuant to section 2945.39 of the Revised Code, the 2151  
trial court commits a defendant who is found incompetent to stand 2152  
trial and who is a mentally retarded person subject to 2153  
institutionalization by court order, if the defendant is being 2154  
provided residential habilitation, care, and treatment in a 2155  
facility operated by the department of developmental disabilities, 2156  
if an individual who is conducting a survey for the department of 2157  
health to determine the facility's compliance with the 2158  
certification requirements of the medicaid program under Chapter 2159  
5111. of the Revised Code and Title XIX of the "Social Security 2160  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 2161  
defendant's receipt of the residential habilitation, care, and 2162  
treatment in the facility as being inappropriate under the 2163  
certification requirements, if the defendant's receipt of the 2164  
residential habilitation, care, and treatment in the facility 2165  
potentially jeopardizes the facility's continued receipt of 2166  
federal medicaid moneys, and if as a result of the citation the 2167  
chief clinical officer of the facility determines that the 2168  
conditions of the defendant's commitment should be changed, the 2169  
department of developmental disabilities may cause the defendant 2170  
to be removed from the particular facility and, after evaluating 2171  
the risks to public safety and the welfare of the defendant and 2172  
after determining whether another type of placement is consistent 2173  
with the certification requirements, may place the defendant in 2174  
another facility that the department selects as an appropriate 2175  
facility for the defendant's continued receipt of residential 2176  
habilitation, care, and treatment and that is a no less secure 2177  
setting than the facility in which the defendant had been placed 2178  
at the time of the citation. Within three days after the 2179  
defendant's removal and alternative placement under the 2180

circumstances described in division (D)(2)(b) of this section, the 2181  
department of developmental disabilities shall notify the trial 2182  
court and the prosecutor in writing of the removal and alternative 2183  
placement. 2184

The trial court shall set a date for a hearing on the removal 2185  
and alternative placement, and the hearing shall be held within 2186  
twenty-one days after the trial court's receipt of the notice from 2187  
the department of developmental disabilities. At least ten days 2188  
before the hearing is held, the trial court shall give the 2189  
prosecutor, the department of developmental disabilities, and the 2190  
counsel for the defendant written notice of the date, time, and 2191  
place of the hearing. At the hearing, the trial court shall 2192  
consider the citation issued by the individual who conducted the 2193  
survey for the department of health to be prima-facie evidence of 2194  
the fact that the defendant's commitment to the particular 2195  
facility was inappropriate under the certification requirements of 2196  
the medicaid program under Chapter 5111. of the Revised Code and 2197  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 2198  
U.S.C.A. 301, as amended, and potentially jeopardizes the 2199  
particular facility's continued receipt of federal medicaid 2200  
moneys. At the conclusion of the hearing, the trial court may 2201  
approve or disapprove the defendant's removal and alternative 2202  
placement. If the trial court approves the defendant's removal and 2203  
alternative placement, the department of developmental 2204  
disabilities may continue the defendant's alternative placement. 2205  
If the trial court disapproves the defendant's removal and 2206  
alternative placement, it shall enter an order modifying the 2207  
defendant's removal and alternative placement, but that order 2208  
shall not require the department of developmental disabilities to 2209  
replace the defendant for purposes of continued residential 2210  
habilitation, care, and treatment in the facility associated with 2211  
the citation issued by the individual who conducted the survey for 2212  
the department of health. 2213

(E) In making a determination under this section regarding nonsecured status or termination of commitment, the trial court shall consider all relevant factors, including, but not limited to, all of the following:

(1) Whether, in the trial court's view, the defendant or person currently represents a substantial risk of physical harm to the defendant or person or others;

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person;

(3) Whether the defendant or person has insight into the ~~defendant's~~ defendant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed;

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows:



(1) For a recommendation of termination of commitment, to 2244  
show by clear and convincing evidence that the defendant or person 2245  
remains a mentally ill person subject to ~~hospitalization by~~ court 2246  
order or a mentally retarded person subject to 2247  
institutionalization by court order; 2248

(2) For a recommendation for a change in the conditions of 2249  
the commitment to a less restrictive status, to show by clear and 2250  
convincing evidence that the proposed change represents a threat 2251  
to public safety or a threat to the safety of any person. 2252

(H) In a hearing held pursuant to division (C) or (D)(1) or 2253  
(2) of this section, the prosecutor shall represent the state or 2254  
the public interest. 2255

(I) At the conclusion of a hearing conducted under division 2256  
(D)(1) of this section regarding a recommendation from the 2257  
designee of the department of mental health, managing officer of 2258  
the institution, or director of a facility, the trial court may 2259  
approve, disapprove, or modify the recommendation and shall enter 2260  
an order accordingly. 2261

(J)(1) A defendant or person who has been committed pursuant 2262  
to section 2945.39 or 2945.40 of the Revised Code continues to be 2263  
under the jurisdiction of the trial court until the final 2264  
termination of the commitment. For purposes of division (J) of 2265  
this section, the final termination of a commitment occurs upon 2266  
the earlier of one of the following: 2267

(a) The defendant or person no longer is a mentally ill 2268  
person subject to ~~hospitalization by~~ court order or a mentally 2269  
retarded person subject to institutionalization by court order, as 2270  
determined by the trial court; 2271

(b) The expiration of the maximum prison term or term of 2272  
imprisonment that the defendant or person could have received if 2273  
the defendant or person had been convicted of the most serious 2274

offense with which the defendant or person is charged or in 2275  
relation to which the defendant or person was found not guilty by 2276  
reason of insanity; 2277

(c) The trial court enters an order terminating the 2278  
commitment under the circumstances described in division 2279  
(J)(2)(a)(ii) of this section. 2280

(2)(a) If a defendant is found incompetent to stand trial and 2281  
committed pursuant to section 2945.39 of the Revised Code, if 2282  
neither of the circumstances described in divisions (J)(1)(a) and 2283  
(b) of this section applies to that defendant, and if a report 2284  
filed with the trial court pursuant to division (C) of this 2285  
section indicates that the defendant presently is competent to 2286  
stand trial or if, at any other time during the period of the 2287  
defendant's commitment, the prosecutor, the counsel for the 2288  
defendant, or the designee of the department of mental health or 2289  
the managing officer of the institution or director of the 2290  
facility to which the defendant is committed files an application 2291  
with the trial court alleging that the defendant presently is 2292  
competent to stand trial and requesting a hearing on the 2293  
competency issue or the trial court otherwise has reasonable cause 2294  
to believe that the defendant presently is competent to stand 2295  
trial and determines on its own motion to hold a hearing on the 2296  
competency issue, the trial court shall schedule a hearing on the 2297  
competency of the defendant to stand trial, shall give the 2298  
prosecutor, the counsel for the defendant, and the department's 2299  
designee or the managing officer of the institution or the 2300  
director of the facility to which the defendant is committed 2301  
notice of the date, time, and place of the hearing at least 2302  
fifteen days before the hearing, and shall conduct the hearing 2303  
within thirty days of the filing of the application or of its own 2304  
motion. If, at the conclusion of the hearing, the trial court 2305  
determines that the defendant presently is capable of 2306

understanding the nature and objective of the proceedings against 2307  
the defendant and of assisting in the defendant's defense, the 2308  
trial court shall order that the defendant is competent to stand 2309  
trial and shall be proceeded against as provided by law with 2310  
respect to the applicable offenses described in division (C)(1) of 2311  
section 2945.38 of the Revised Code and shall enter whichever of 2312  
the following additional orders is appropriate: 2313

(i) If the trial court determines that the defendant remains 2314  
a mentally ill person subject to ~~hospitalization~~ by court order or 2315  
a mentally retarded person subject to institutionalization by 2316  
court order, the trial court shall order that the defendant's 2317  
commitment to the department of mental health or to an institution 2318  
or facility for the treatment of developmental disabilities be 2319  
continued during the pendency of the trial on the applicable 2320  
offenses described in division (C)(1) of section 2945.38 of the 2321  
Revised Code. 2322

(ii) If the trial court determines that the defendant no 2323  
longer is a mentally ill person subject to ~~hospitalization~~ by 2324  
court order or a mentally retarded person subject to 2325  
institutionalization by court order, the trial court shall order 2326  
that the defendant's commitment to the department of mental health 2327  
or to an institution or facility for the treatment of 2328  
developmental disabilities shall not be continued during the 2329  
pendency of the trial on the applicable offenses described in 2330  
division (C)(1) of section 2945.38 of the Revised Code. This order 2331  
shall be a final termination of the commitment for purposes of 2332  
division (J)(1)(c) of this section. 2333

(b) If, at the conclusion of the hearing described in 2334  
division (J)(2)(a) of this section, the trial court determines 2335  
that the defendant remains incapable of understanding the nature 2336  
and objective of the proceedings against the defendant or of 2337  
assisting in the defendant's defense, the trial court shall order 2338

that the defendant continues to be incompetent to stand trial, 2339  
that the defendant's commitment to the department of mental health 2340  
or to an institution or facility for the treatment of 2341  
developmental disabilities shall be continued, and that the 2342  
defendant remains subject to the jurisdiction of the trial court 2343  
pursuant to that commitment, and to the provisions of this 2344  
section, until the final termination of the commitment as 2345  
described in division (J)(1) of this section. 2346

**Sec. 2967.22.** Whenever it is brought to the attention of the 2347  
adult parole authority or a department of probation that a 2348  
parolee, person under a community control sanction, person under 2349  
transitional control, or releasee appears to be a mentally ill 2350  
person subject to ~~hospitalization by~~ court order, as defined in 2351  
section 5122.01 of the Revised Code, or a mentally retarded person 2352  
subject to institutionalization by court order, as defined in 2353  
section 5123.01 of the Revised Code, the parole or probation 2354  
officer, subject to the approval of the chief of the adult parole 2355  
authority, the designee of the chief of the adult parole 2356  
authority, or the chief probation officer, may file an affidavit 2357  
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 2358  
person under a community control sanction, or releasee who is 2359  
involuntarily detained under Chapter 5122. or 5123. of the Revised 2360  
Code shall receive credit against the period of parole or 2361  
community control or the term of post-release control for the 2362  
period of involuntary detention. 2363

If a parolee, person under a community control sanction, 2364  
person under transitional control, or releasee escapes from an 2365  
institution or facility within the department of mental health or 2366  
the department of developmental disabilities, the superintendent 2367  
of the institution immediately shall notify the chief of the adult 2368  
parole authority or the chief probation officer. Notwithstanding 2369  
the provisions of section 5122.26 of the Revised Code, the 2370

procedure for the apprehension, detention, and return of the 2371  
parolee, person under a community control sanction, person under 2372  
transitional control, or releasee is the same as that provided for 2373  
the apprehension, detention, and return of persons who escape from 2374  
institutions operated by the department of rehabilitation and 2375  
correction. If the escaped parolee, person under transitional 2376  
control, or releasee is not apprehended and returned to the 2377  
custody of the department of mental health or the department of 2378  
developmental disabilities within ninety days after the escape, 2379  
the parolee, person under transitional control, or releasee shall 2380  
be discharged from the custody of the department of mental health 2381  
or the department of developmental disabilities and returned to 2382  
the custody of the department of rehabilitation and correction. If 2383  
the escaped person under a community control sanction is not 2384  
apprehended and returned to the custody of the department of 2385  
mental health or the department of developmental disabilities 2386  
within ninety days after the escape, the person under a community 2387  
control sanction shall be discharged from the custody of the 2388  
department of mental health or the department of developmental 2389  
disabilities and returned to the custody of the court that 2390  
sentenced that person. 2391

**Sec. 5119.23.** The department of mental health may examine 2392  
into, with or without expert assistance, the question of the 2393  
mental and physical condition of any person committed to or 2394  
involuntarily confined in any hospital for the mentally ill, or 2395  
restrained of ~~his~~ liberty at any place within this state by reason 2396  
of alleged mental illness and may order and compel the discharge 2397  
of any such person who is not a mentally ill person subject to 2398  
~~hospitalization by~~ court order as defined in division (B) of 2399  
section 5122.01 of the Revised Code and direct what disposition 2400  
shall be made of ~~him~~ the person. The order of discharge shall be 2401  
signed by the director of mental health. Upon receipt of such 2402

order by the superintendent or other person in charge of the 2403  
building in which the person named in such order is confined, such 2404  
person shall forthwith be discharged or otherwise disposed of 2405  
according to the terms of said order, and any further or other 2406  
detention of such person is unlawful. No such order shall be made 2407  
in favor of any person committed and held for trial on a criminal 2408  
charge, in confinement by an order of a judge or court made in a 2409  
criminal proceeding, or in any case unless notice is given to the 2410  
superintendent or other person having charge of the building in 2411  
which the alleged mentally ill person is detained, and a 2412  
reasonable opportunity is allowed the person in charge to justify 2413  
further detention of the person confined. 2414

**Sec. 5120.17.** (A) As used in this section: 2415

(1) "Mental illness" means a substantial disorder of thought, 2416  
mood, perception, orientation, or memory that grossly impairs 2417  
judgment, behavior, capacity to recognize reality, or ability to 2418  
meet the ordinary demands of life. 2419

(2) "Mentally ill person subject to hospitalization" means a 2420  
mentally ill person to whom any of the following applies because 2421  
of the person's mental illness: 2422

(a) The person represents a substantial risk of physical harm 2423  
to the person as manifested by evidence of threats of, or attempts 2424  
at, suicide or serious self-inflicted bodily harm. 2425

(b) The person represents a substantial risk of physical harm 2426  
to others as manifested by evidence of recent homicidal or other 2427  
violent behavior, evidence of recent threats that place another in 2428  
reasonable fear of violent behavior and serious physical harm, or 2429  
other evidence of present dangerousness. 2430

(c) The person represents a substantial and immediate risk of 2431  
serious physical impairment or injury to the person as manifested 2432

by evidence that the person is unable to provide for and is not 2433  
providing for the person's basic physical needs because of the 2434  
person's mental illness and that appropriate provision for those 2435  
needs cannot be made immediately available in the correctional 2436  
institution in which the inmate is currently housed. 2437

(d) The person would benefit from treatment in a hospital for 2438  
the person's mental illness and is in need of treatment in a 2439  
hospital as manifested by evidence of behavior that creates a 2440  
grave and imminent risk to substantial rights of others or the 2441  
person. 2442

(3) "Psychiatric hospital" means all or part of a facility 2443  
that is operated and managed by the department of mental health to 2444  
provide psychiatric hospitalization services in accordance with 2445  
the requirements of this section pursuant to an agreement between 2446  
the directors of rehabilitation and correction and mental health 2447  
or, is licensed by the department of mental health pursuant to 2448  
section 5119.20 of the Revised Code as a psychiatric hospital and 2449  
is accredited by a healthcare accrediting organization approved by 2450  
the department of mental health and the psychiatric hospital is 2451  
any of the following: 2452

(a) Operated and managed by the department of rehabilitation 2453  
and correction within a facility that is operated by the 2454  
department of rehabilitation and correction; 2455

(b) Operated and managed by a contractor for the department 2456  
of rehabilitation and correction within a facility that is 2457  
operated by the department of rehabilitation and correction; 2458

(c) Operated and managed in the community by an entity that 2459  
has contracted with the department of rehabilitation and 2460  
correction to provide psychiatric hospitalization services in 2461  
accordance with the requirements of this section. 2462

(4) "Inmate patient" means an inmate who is admitted to a 2463

psychiatric hospital.	2464
(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.	2465 2466
(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:	2467 2468 2469 2470 2471 2472
(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;	2473 2474
(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;	2475 2476
(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.	2477 2478 2479 2480 2481
(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.	2482 2483 2484
(8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.	2485 2486 2487 2488
(9) "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by division (B) of this section.	2489 2490 2491 2492
(10)(a) "Independent decision-maker" means a person who is	2493



employed or retained by the department of rehabilitation and 2494  
correction and is appointed by the chief or chief clinical officer 2495  
of mental health services as a hospitalization hearing officer to 2496  
conduct due process hearings. 2497

(b) An independent decision-maker who presides over any 2498  
hearing or issues any order pursuant to this section shall be a 2499  
psychiatrist, psychologist, or attorney, shall not be specifically 2500  
associated with the institution in which the inmate who is the 2501  
subject of the hearing or order resides at the time of the hearing 2502  
or order, and previously shall not have had any treatment 2503  
relationship with nor have represented in any legal proceeding the 2504  
inmate who is the subject of the order. 2505

(B)(1) Except as provided in division (C) of this section, if 2506  
the warden of a state correctional institution or the warden's 2507  
designee believes that an inmate should be transferred from the 2508  
institution to a psychiatric hospital, the department shall hold a 2509  
hearing to determine whether the inmate is a mentally ill person 2510  
subject to hospitalization. The department shall conduct the 2511  
hearing at the state correctional institution in which the inmate 2512  
is confined, and the department shall provide qualified 2513  
independent assistance to the inmate for the hearing. An 2514  
independent decision-maker provided by the department shall 2515  
preside at the hearing and determine whether the inmate is a 2516  
mentally ill person subject to hospitalization. 2517

(2) Except as provided in division (C) of this section, prior 2518  
to the hearing held pursuant to division (B)(1) of this section, 2519  
the warden or the warden's designee shall give written notice to 2520  
the inmate that the department is considering transferring the 2521  
inmate to a psychiatric hospital, that it will hold a hearing on 2522  
the proposed transfer at which the inmate may be present, that at 2523  
the hearing the inmate has the rights described in division (B)(3) 2524  
of this section, and that the department will provide qualified 2525

independent assistance to the inmate with respect to the hearing. 2526  
The department shall not hold the hearing until the inmate has 2527  
received written notice of the proposed transfer and has had 2528  
sufficient time to consult with the person appointed by the 2529  
department to provide assistance to the inmate and to prepare for 2530  
a presentation at the hearing. 2531

(3) At the hearing held pursuant to division (B)(1) of this 2532  
section, the department shall disclose to the inmate the evidence 2533  
that it relies upon for the transfer and shall give the inmate an 2534  
opportunity to be heard. Unless the independent decision-maker 2535  
finds good cause for not permitting it, the inmate may present 2536  
documentary evidence and the testimony of witnesses at the hearing 2537  
and may confront and cross-examine witnesses called by the 2538  
department. 2539

(4) If the independent decision-maker does not find clear and 2540  
convincing evidence that the inmate is a mentally ill person 2541  
subject to hospitalization, the department shall not transfer the 2542  
inmate to a psychiatric hospital but shall continue to confine the 2543  
inmate in the same state correctional institution or in another 2544  
state correctional institution that the department considers 2545  
appropriate. If the independent decision-maker finds clear and 2546  
convincing evidence that the inmate is a mentally ill person 2547  
subject to hospitalization, the decision-maker shall order that 2548  
the inmate be transported to a psychiatric hospital for 2549  
observation and treatment for a period of not longer than thirty 2550  
days. After the hearing, the independent decision-maker shall 2551  
submit to the department a written decision that states one of the 2552  
findings described in division (B)(4) of this section, the 2553  
evidence that the decision-maker relied on in reaching that 2554  
conclusion, and, if the decision is that the inmate should be 2555  
transferred, the reasons for the transfer. 2556

(C)(1) The department may transfer an inmate to a psychiatric 2557

hospital under an emergency transfer order if the chief clinical 2558  
officer of mental health services of the department or that 2559  
officer's designee and either a psychiatrist employed or retained 2560  
by the department or, in the absence of a psychiatrist, a 2561  
psychologist employed or retained by the department determines 2562  
that the inmate is mentally ill, presents an immediate danger to 2563  
self or others, and requires hospital-level care. 2564

(2) The department may transfer an inmate to a psychiatric 2565  
hospital under an uncontested transfer order if both of the 2566  
following apply: 2567

(a) A psychiatrist employed or retained by the department 2568  
determines all of the following apply: 2569

(i) The inmate has a mental illness or is a mentally ill 2570  
person subject to hospitalization. 2571

(ii) The inmate requires hospital care to address the mental 2572  
illness. 2573

(iii) The inmate has the mental capacity to make a reasoned 2574  
choice regarding the inmate's transfer to a hospital. 2575

(b) The inmate agrees to a transfer to a hospital. 2576

(3) The written notice and the hearing required under 2577  
divisions (B)(1) and (2) of this section are not required for an 2578  
emergency transfer or uncontested transfer under division (C)(1) 2579  
or (2) of this section. 2580

(4) After an emergency transfer under division (C)(1) of this 2581  
section, the department shall hold a hearing for continued 2582  
hospitalization within five working days after admission of the 2583  
transferred inmate to the psychiatric hospital. The department 2584  
shall hold subsequent hearings pursuant to division (F) of this 2585  
section at the same intervals as required for inmate patients who 2586  
are transported to a psychiatric hospital under division (B)(4) of 2587

this section. 2588

(5) After an uncontested transfer under division (C)(2) of 2589  
this section, the inmate may withdraw consent to the transfer in 2590  
writing at any time. Upon the inmate's withdrawal of consent, the 2591  
hospital shall discharge the inmate, or, within five working days, 2592  
the department shall hold a hearing for continued hospitalization. 2593  
The department shall hold subsequent hearings pursuant to division 2594  
(F) of this section at the same time intervals as required for 2595  
inmate patients who are transported to a psychiatric hospital 2596  
under division (B)(4) of this section. 2597

(D)(1) If an independent decision-maker, pursuant to division 2598  
(B)(4) of this section, orders an inmate transported to a 2599  
psychiatric hospital or if an inmate is transferred pursuant to 2600  
division (C)(1) or (2) of this section, the staff of the 2601  
psychiatric hospital shall examine the inmate patient when 2602  
admitted to the psychiatric hospital as soon as practicable after 2603  
the inmate patient arrives at the hospital and no later than 2604  
twenty-four hours after the time of arrival. The attending 2605  
physician responsible for the inmate patient's care shall give the 2606  
inmate patient all information necessary to enable the patient to 2607  
give a fully informed, intelligent, and knowing consent to the 2608  
treatment the inmate patient will receive in the hospital. The 2609  
attending physician shall tell the inmate patient the expected 2610  
physical and medical consequences of any proposed treatment and 2611  
shall give the inmate patient the opportunity to consult with 2612  
another psychiatrist at the hospital and with the inmate advisor. 2613

(2) No inmate patient who is transported or transferred 2614  
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 2615  
psychiatric hospital within a facility that is operated by the 2616  
department of rehabilitation and correction shall be subjected to 2617  
any of the following procedures: 2618

(a) Convulsive therapy; 2619

(b) Major aversive interventions;	2620
(c) Any unusually hazardous treatment procedures;	2621
(d) Psychosurgery.	2622
(E) The department of rehabilitation and correction shall	2623
ensure that an inmate patient hospitalized pursuant to this	2624
section receives or has all of the following:	2625
(1) Receives sufficient professional care within twenty days	2626
of admission to ensure that an evaluation of the inmate patient's	2627
current status, differential diagnosis, probable prognosis, and	2628
description of the current treatment plan have been formulated and	2629
are stated on the inmate patient's official chart;	2630
(2) Has a written treatment plan consistent with the	2631
evaluation, diagnosis, prognosis, and goals of treatment;	2632
(3) Receives treatment consistent with the treatment plan;	2633
(4) Receives periodic reevaluations of the treatment plan by	2634
the professional staff at intervals not to exceed thirty days;	2635
(5) Is provided with adequate medical treatment for physical	2636
disease or injury;	2637
(6) Receives humane care and treatment, including, without	2638
being limited to, the following:	2639
(a) Access to the facilities and personnel required by the	2640
treatment plan;	2641
(b) A humane psychological and physical environment;	2642
(c) The right to obtain current information concerning the	2643
treatment program, the expected outcomes of treatment, and the	2644
expectations for the inmate patient's participation in the	2645
treatment program in terms that the inmate patient reasonably can	2646
understand;	2647
(d) Opportunity for participation in programs designed to	2648

help the inmate patient acquire the skills needed to work toward 2649  
discharge from the psychiatric hospital; 2650

(e) The right to be free from unnecessary or excessive 2651  
medication and from unnecessary restraints or isolation; 2652

(f) All other rights afforded inmates in the custody of the 2653  
department consistent with rules, policy, and procedure of the 2654  
department. 2655

(F) The department shall hold a hearing for the continued 2656  
hospitalization of an inmate patient who is transported or 2657  
transferred to a psychiatric hospital pursuant to division (B)(4) 2658  
or (C)(1) of this section prior to the expiration of the initial 2659  
thirty-day period of hospitalization. The department shall hold 2660  
any subsequent hearings, if necessary, not later than ninety days 2661  
after the first thirty-day hearing and then not later than each 2662  
one hundred and eighty days after the immediately prior hearing. 2663  
An independent decision-maker shall conduct the hearings at the 2664  
psychiatric hospital in which the inmate patient is confined. The 2665  
inmate patient shall be afforded all of the rights set forth in 2666  
this section for the hearing prior to transfer to the psychiatric 2667  
hospital. The department may not waive a hearing for continued 2668  
commitment. A hearing for continued commitment is mandatory for an 2669  
inmate patient transported or transferred to a psychiatric 2670  
hospital pursuant to division (B)(4) or (C)(1) of this section 2671  
unless the inmate patient has the capacity to make a reasoned 2672  
choice to execute a waiver and waives the hearing in writing. An 2673  
inmate patient who is transferred to a psychiatric hospital 2674  
pursuant to an uncontested transfer under division (C)(2) of this 2675  
section and who has scheduled hearings after withdrawal of consent 2676  
for hospitalization may waive any of the scheduled hearings if the 2677  
inmate has the capacity to make a reasoned choice and executes a 2678  
written waiver of the hearing. 2679

If upon completion of the hearing the independent 2680

decision-maker does not find by clear and convincing evidence that 2681  
the inmate patient is a mentally ill person subject to 2682  
hospitalization, the independent decision-maker shall order the 2683  
inmate patient's discharge from the psychiatric hospital. If the 2684  
independent decision-maker finds by clear and convincing evidence 2685  
that the inmate patient is a mentally ill person subject to 2686  
hospitalization, the independent decision-maker shall order that 2687  
the inmate patient remain at the psychiatric hospital for 2688  
continued hospitalization until the next required hearing. 2689

If at any time prior to the next required hearing for 2690  
continued hospitalization, the medical director of the hospital or 2691  
the attending physician determines that the treatment needs of the 2692  
inmate patient could be met equally well in an available and 2693  
appropriate less restrictive state correctional institution or 2694  
unit, the medical director or attending physician may discharge 2695  
the inmate to that facility. 2696

(G) An inmate patient is entitled to the credits toward the 2697  
reduction of the inmate patient's stated prison term pursuant to 2698  
Chapters 2967. and 5120. of the Revised Code under the same terms 2699  
and conditions as if the inmate patient were in any other 2700  
institution of the department of rehabilitation and correction. 2701

(H) The adult parole authority may place an inmate patient on 2702  
parole or under post-release control directly from a psychiatric 2703  
hospital. 2704

(I) If an inmate patient who is a mentally ill person subject 2705  
to hospitalization is to be released from a psychiatric hospital 2706  
because of the expiration of the inmate patient's stated prison 2707  
term, the director of rehabilitation and correction or the 2708  
director's designee, at least fourteen days before the expiration 2709  
date, may file an affidavit under section 5122.11 or 5123.71 of 2710  
the Revised Code with the probate court in the county where the 2711  
psychiatric hospital is located or the probate court in the county 2712

where the inmate will reside, alleging that the inmate patient is 2713  
a mentally ill person subject to ~~hospitalization~~ by court order or 2714  
a mentally retarded person subject to institutionalization by 2715  
court order, whichever is applicable. The proceedings in the 2716  
probate court shall be conducted pursuant to Chapter 5122. or 2717  
5123. of the Revised Code except as modified by this division. 2718

Upon the request of the inmate patient, the probate court 2719  
shall grant the inmate patient an initial hearing under section 2720  
5122.141 of the Revised Code or a probable cause hearing under 2721  
section 5123.75 of the Revised Code before the expiration of the 2722  
stated prison term. After holding a full hearing, the probate 2723  
court shall make a disposition authorized by section 5122.15 or 2724  
5123.76 of the Revised Code before the date of the expiration of 2725  
the stated prison term. No inmate patient shall be held in the 2726  
custody of the department of rehabilitation and correction past 2727  
the date of the expiration of the inmate patient's stated prison 2728  
term. 2729

(J) The department of rehabilitation and correction shall set 2730  
standards for treatment provided to inmate patients. 2731

(K) A certificate, application, record, or report that is 2732  
made in compliance with this section and that directly or 2733  
indirectly identifies an inmate or former inmate whose 2734  
hospitalization has been sought under this section is 2735  
confidential. No person shall disclose the contents of any 2736  
certificate, application, record, or report of that nature or any 2737  
other psychiatric or medical record or report regarding a mentally 2738  
ill inmate unless one of the following applies: 2739

(1) The person identified, or the person's legal guardian, if 2740  
any, consents to disclosure, and the chief clinical officer or 2741  
designee of mental health services of the department of 2742  
rehabilitation and correction determines that disclosure is in the 2743  
best interests of the person. 2744



(2) Disclosure is required by a court order signed by a judge. 2745  
2746

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons. 2747  
2748  
2749

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any. 2750  
2751  
2752  
2753  
2754  
2755  
2756  
2757

(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure. 2758  
2759  
2760  
2761  
2762  
2763  
2764  
2765  
2766  
2767

(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department of mental health has a current agreement for patient care or services to ensure continuity of care. Disclosure under this division is limited to records 2768  
2769  
2770  
2771  
2772  
2773  
2774  
2775  
2776

regarding a mentally ill inmate's medication history, physical 2777  
health status and history, summary of course of treatment, summary 2778  
of treatment needs, and a discharge summary, if any. No office, 2779  
department, agency, or board shall disclose the records and other 2780  
information unless one of the following applies: 2781

(a) The mentally ill inmate is notified of the possible 2782  
disclosure and consents to the disclosure. 2783

(b) The mentally ill inmate is notified of the possible 2784  
disclosure, an attempt to gain the consent of the inmate is made, 2785  
and the office, department, agency, or board documents the attempt 2786  
to gain consent, the inmate's objections, if any, and the reasons 2787  
for disclosure in spite of the inmate's objections. 2788

(7) Information may be disclosed to staff members designated 2789  
by the director of rehabilitation and correction for the purpose 2790  
of evaluating the quality, effectiveness, and efficiency of 2791  
services and determining if the services meet minimum standards. 2792

The name of an inmate patient shall not be retained with the 2793  
information obtained during the evaluations. 2794

(L) The director of rehabilitation and correction may adopt 2795  
rules setting forth guidelines for the procedures required under 2796  
divisions (B), (C)(1), and (C)(2) of this section. 2797

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of 2798  
the Revised Code: 2799

(A) "Mental illness" means a substantial disorder of thought, 2800  
mood, perception, orientation, or memory that grossly impairs 2801  
judgment, behavior, capacity to recognize reality, or ability to 2802  
meet the ordinary demands of life. 2803

(B) "Mentally ill person subject to ~~hospitalization by~~ court 2804  
order" means a mentally ill person who, because of the person's 2805  
illness: 2806

(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; or

(4) ~~Would benefit from treatment in a hospital 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~~ due to all of the following:

(a) The person is unlikely to voluntarily participate in treatment.

(b) The person has demonstrated difficulty in adhering to prescribed treatment.

(c) The likelihood that, if the person is not treated, the person's current condition will deteriorate to the point that the person will meet the criterion in division (B)(1), (2), or (3) of this section.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a

finding of not guilty by reason of insanity or incompetence to 2838  
stand trial or under this chapter, who is under observation or 2839  
receiving treatment in such place. 2840

(2) "Patient" does not include a person admitted to a 2841  
hospital or other place under section 2945.39, 2945.40, 2945.401, 2842  
or 2945.402 of the Revised Code to the extent that the reference 2843  
in this chapter to patient, or the context in which the reference 2844  
occurs, is in conflict with any provision of sections 2945.37 to 2845  
2945.402 of the Revised Code. 2846

(D) "Licensed physician" means a person licensed under the 2847  
laws of this state to practice medicine or a medical officer of 2848  
the government of the United States while in this state in the 2849  
performance of the person's official duties. 2850

(E) "Psychiatrist" means a licensed physician who has 2851  
satisfactorily completed a residency training program in 2852  
psychiatry, as approved by the residency review committee of the 2853  
American medical association, the committee on post-graduate 2854  
education of the American osteopathic association, or the American 2855  
osteopathic board of neurology and psychiatry, or who on July 1, 2856  
1989, has been recognized as a psychiatrist by the Ohio state 2857  
medical association or the Ohio osteopathic association on the 2858  
basis of formal training and five or more years of medical 2859  
practice limited to psychiatry. 2860

(F) "Hospital" means a hospital or inpatient unit licensed by 2861  
the department of mental health under section 5119.20 of the 2862  
Revised Code, and any institution, hospital, or other place 2863  
established, controlled, or supervised by the department under 2864  
Chapter 5119. of the Revised Code. 2865

(G) "Public hospital" means a facility that is tax-supported 2866  
and under the jurisdiction of the department of mental health. 2867

(H) "Community mental health agency" means an agency that 2868

provides community mental health services that are certified by 2869  
the director of mental health under section 5119.611 of the 2870  
Revised Code. 2871

(I) "Licensed clinical psychologist" means a person who holds 2872  
a current valid psychologist license issued under section 4732.12 2873  
or 4732.15 of the Revised Code, and in addition, meets either of 2874  
the following criteria: 2875

(1) Meets the educational requirements set forth in division 2876  
(B) of section 4732.10 of the Revised Code and has a minimum of 2877  
two years' full-time professional experience, or the equivalent as 2878  
determined by rule of the state board of psychology, at least one 2879  
year of which shall be a predoctoral internship, in clinical 2880  
psychological work in a public or private hospital or clinic or in 2881  
private practice, diagnosing and treating problems of mental 2882  
illness or mental retardation under the supervision of a 2883  
psychologist who is licensed or who holds a diploma issued by the 2884  
American board of professional psychology, or whose qualifications 2885  
are substantially similar to those required for licensure by the 2886  
state board of psychology when the supervision has occurred prior 2887  
to enactment of laws governing the practice of psychology; 2888

(2) Meets the educational requirements set forth in division 2889  
(B) of section 4732.15 of the Revised Code and has a minimum of 2890  
four years' full-time professional experience, or the equivalent 2891  
as determined by rule of the state board of psychology, in 2892  
clinical psychological work in a public or private hospital or 2893  
clinic or in private practice, diagnosing and treating problems of 2894  
mental illness or mental retardation under supervision, as set 2895  
forth in division (I)(1) of this section. 2896

(J) "Health officer" means any public health physician; 2897  
public health nurse; or other person authorized by or designated 2898  
by a city health district; a general health district; or a board 2899  
of alcohol, drug addiction, and mental health services to perform 2900

the duties of a health officer under this chapter. 2901

(K) "Chief clinical officer" means the medical director of a 2902  
hospital, or a community mental health agency, or a board of 2903  
alcohol, drug addiction, and mental health services, or, if there 2904  
is no medical director, the licensed physician responsible for the 2905  
treatment a hospital or community mental health agency provides. 2906  
The chief clinical officer may delegate to the attending physician 2907  
responsible for a patient's care the duties imposed on the chief 2908  
clinical officer by this chapter. Within a community mental health 2909  
agency, the chief clinical officer shall be designated by the 2910  
governing body of the agency and shall be a licensed physician or 2911  
licensed clinical psychologist who supervises diagnostic and 2912  
treatment services. A licensed physician or licensed clinical 2913  
psychologist designated by the chief clinical officer may perform 2914  
the duties and accept the responsibilities of the chief clinical 2915  
officer in the chief clinical officer's absence. 2916

(L) "Working day" or "court day" means Monday, Tuesday, 2917  
Wednesday, Thursday, and Friday, except when such day is a 2918  
holiday. 2919

(M) "Indigent" means unable without deprivation of 2920  
satisfaction of basic needs to provide for the payment of an 2921  
attorney and other necessary expenses of legal representation, 2922  
including expert testimony. 2923

(N) "Respondent" means the person whose detention, 2924  
commitment, hospitalization, continued hospitalization or 2925  
commitment, or discharge is being sought in any proceeding under 2926  
this chapter. 2927

(O) "Legal rights service" means the service established 2928  
under section 5123.60 of the Revised Code. 2929

(P) "Independent expert evaluation" means an evaluation 2930  
conducted by a licensed clinical psychologist, psychiatrist, or 2931

licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis

for a board's denying services to any person present in the 2962  
board's service district, and the board shall provide services for 2963  
a person whose residence is in dispute while residence is being 2964  
determined and for a person in an emergency situation. 2965

(T) "Admission" to a hospital or other place means that a 2966  
patient is accepted for and stays at least one night at the 2967  
hospital or other place. 2968

(U) "Prosecutor" means the prosecuting attorney, village 2969  
solicitor, city director of law, or similar chief legal officer 2970  
who prosecuted a criminal case in which a person was found not 2971  
guilty by reason of insanity, who would have had the authority to 2972  
prosecute a criminal case against a person if the person had not 2973  
been found incompetent to stand trial, or who prosecuted a case in 2974  
which a person was found guilty. 2975

(V) "Treatment plan" means a written statement of reasonable 2976  
objectives and goals for an individual established by the 2977  
treatment team, with specific criteria to evaluate progress 2978  
towards achieving those objectives. The active participation of 2979  
the patient in establishing the objectives and goals shall be 2980  
documented. The treatment plan shall be based on patient needs and 2981  
include services to be provided to the patient while the patient 2982  
is hospitalized ~~and~~, after the patient is discharged, or in an 2983  
outpatient setting. The treatment plan shall address services to 2984  
be provided ~~upon discharge, including. The services may include,~~ 2985  
but are not limited to ~~housing, financial, and vocational services~~ 2986  
all of the following: 2987

(1) Community psychiatric supportive treatment; 2988

(2) Assertive community treatment; 2989

(3) Medications; 2990

(4) Individual or group therapy; 2991



<u>(5) Peer support services;</u>	2992
<u>(6) Financial services;</u>	2993
<u>(7) Housing or supervised living services;</u>	2994
<u>(8) Alcohol or substance abuse treatment;</u>	2995
<u>(9) Any other services prescribed to treat the patient's</u>	2996
<u>mental illness and to either assist the patient in living and</u>	2997
<u>functioning in the community or to help prevent a relapse or a</u>	2998
<u>deterioration of the patient's current condition.</u>	2999
(W) "Community control sanction" has the same meaning as in	3000
section 2929.01 of the Revised Code.	3001
(X) "Post-release control sanction" has the same meaning as	3002
in section 2967.01 of the Revised Code.	3003
<b>Sec. 5122.03.</b> A patient admitted under section 5122.02 of the	3004
Revised Code who requests release in writing, or whose release is	3005
requested in writing by the patient's counsel, legal guardian,	3006
parent, spouse, or adult next of kin shall be released forthwith,	3007
except that when:	3008
(A) The patient was admitted on the patient's own application	3009
and the request for release is made by a person other than the	3010
patient, release may be conditional upon the agreement of the	3011
patient; or	3012
(B) The chief clinical officer of the hospital, within three	3013
court days from the receipt of the request for release, files or	3014
causes to be filed with the court of the county where the patient	3015
is hospitalized or of the county where the patient is a resident,	3016
an affidavit under section 5122.11 of the Revised Code. Release	3017
may be postponed until the hearing held under section 5122.141 of	3018
the Revised Code. A telephone communication within three court	3019
days from the receipt of the request for release from the chief	3020
clinical officer to the court, indicating that the required	3021

affidavit has been mailed, is sufficient compliance with the time 3022  
limit for filing such affidavit. 3023

Unless the patient is released within three days from the 3024  
receipt of the request by the chief clinical officer, the request 3025  
shall serve as a request for an initial hearing under section 3026  
5122.141 of the Revised Code. If the court finds that the patient 3027  
is a mentally ill person subject to ~~hospitalization by~~ court 3028  
order, all provisions of this chapter with respect to involuntary 3029  
hospitalization apply to such person. 3030

Judicial proceedings for hospitalization shall not be 3031  
commenced with respect to a voluntary patient except pursuant to 3032  
this section. 3033

Sections 5121.30 to 5121.56 of the Revised Code apply to 3034  
persons received in a hospital operated by the department of 3035  
mental health on a voluntary application. 3036

The chief clinical officer of the hospital shall provide 3037  
reasonable means and arrangements for informing patients of their 3038  
rights to release as provided in this section and for assisting 3039  
them in making and presenting requests for release or for a 3040  
hearing under section 5122.141 of the Revised Code. 3041

Before a patient is released from a public hospital, the 3042  
chief clinical officer shall, when possible, notify the board of 3043  
the patient's county of residence of the patient's pending release 3044  
after the chief clinical officer has informed the patient that the 3045  
board will be so notified. 3046

**Sec. 5122.05.** (A) The chief clinical officer of a hospital 3047  
may, and the chief clinical officer of a public hospital in all 3048  
cases of psychiatric medical emergencies, shall receive for 3049  
observation, diagnosis, care, and treatment any person whose 3050  
admission is applied for under any of the following procedures: 3051

(1) Emergency procedure, as provided in section 5122.10 of the Revised Code; 3052  
3053

(2) Judicial procedure as provided in sections 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, and 5122.11 to 5122.15 of the Revised Code. 3054  
3055  
3056

Upon application for such admission, the chief clinical officer of a hospital immediately shall notify the board of the patient's county of residence. To assist the hospital in determining whether the patient is subject to involuntary hospitalization and whether alternative services are available, the board or an agency the board designates promptly shall assess the patient unless the board or agency already has performed such assessment, or unless the commitment is pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code. 3057  
3058  
3059  
3060  
3061  
3062  
3063  
3064  
3065  
3066

(B) No person who is being treated by spiritual means through prayer alone, in accordance with a recognized religious method of healing, may be involuntarily committed unless the court has determined that the person represents a substantial risk of impairment or injury to self or others; 3067  
3068  
3069  
3070  
3071

(C) Any person who is involuntarily detained in a hospital or otherwise is in custody under this chapter, immediately upon being taken into custody, shall be informed and provided with a written statement that the person may do any of the following: 3072  
3073  
3074  
3075

(1) Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a licensed physician, or a licensed clinical psychologist, to contact any other person or persons to secure representation by counsel, or to obtain medical or psychological assistance, and be provided assistance in making calls if the assistance is needed and requested; 3076  
3077  
3078  
3079  
3080  
3081  
3082

(2) Retain counsel and have independent expert evaluation of 3083  
the person's mental condition and, if the person is unable to 3084  
obtain an attorney or independent expert evaluation, be 3085  
represented by court-appointed counsel or have independent expert 3086  
evaluation of the person's mental condition, or both, at public 3087  
expense if the person is indigent; 3088

(3) Have a hearing to determine whether or not the person is 3089  
a mentally ill person subject to ~~hospitalization~~ by court order. 3090

**Sec. 5122.10.** Any psychiatrist, licensed clinical 3091  
psychologist, licensed physician, health officer, parole officer, 3092  
police officer, or sheriff may take a person into custody, or the 3093  
chief of the adult parole authority or a parole or probation 3094  
officer with the approval of the chief of the authority may take a 3095  
parolee, an offender under a community control sanction or a 3096  
post-release control sanction, or an offender under transitional 3097  
control into custody and may immediately transport the parolee, 3098  
offender on community control or post-release control, or offender 3099  
under transitional control to a hospital or, notwithstanding 3100  
section 5119.20 of the Revised Code, to a general hospital not 3101  
licensed by the department of mental health where the parolee, 3102  
offender on community control or post-release control, or offender 3103  
under transitional control may be held for the period prescribed 3104  
in this section, if the psychiatrist, licensed clinical 3105  
psychologist, licensed physician, health officer, parole officer, 3106  
police officer, or sheriff has reason to believe that the person 3107  
is a mentally ill person subject to ~~hospitalization~~ by court order 3108  
under division (B) of section 5122.01 of the Revised Code, and 3109  
represents a substantial risk of physical harm to self or others 3110  
if allowed to remain at liberty pending examination. 3111

A written statement shall be given to such hospital by the 3112  
transporting psychiatrist, licensed clinical psychologist, 3113

licensed physician, health officer, parole officer, police 3114  
officer, chief of the adult parole authority, parole or probation 3115  
officer, or sheriff stating the circumstances under which such 3116  
person was taken into custody and the reasons for the 3117  
psychiatrist's, licensed clinical psychologist's, licensed 3118  
physician's, health officer's, parole officer's, police officer's, 3119  
chief of the adult parole authority's, parole or probation 3120  
officer's, or sheriff's belief. This statement shall be made 3121  
available to the respondent or the respondent's attorney upon 3122  
request of either. 3123

Every reasonable and appropriate effort shall be made to take 3124  
persons into custody in the least conspicuous manner possible. A 3125  
person taking the respondent into custody pursuant to this section 3126  
shall explain to the respondent: the name, professional 3127  
designation, and agency affiliation of the person taking the 3128  
respondent into custody; that the custody-taking is not a criminal 3129  
arrest; and that the person is being taken for examination by 3130  
mental health professionals at a specified mental health facility 3131  
identified by name. 3132

If a person taken into custody under this section is 3133  
transported to a general hospital, the general hospital may admit 3134  
the person, or provide care and treatment for the person, or both, 3135  
notwithstanding section 5119.20 of the Revised Code, but by the 3136  
end of twenty-four hours after arrival at the general hospital, 3137  
the person shall be transferred to a hospital as defined in 3138  
section 5122.01 of the Revised Code. 3139

A person transported or transferred to a hospital or 3140  
community mental health agency under this section shall be 3141  
examined by the staff of the hospital or agency within twenty-four 3142  
hours after arrival at the hospital or agency. If to conduct the 3143  
examination requires that the person remain overnight, the 3144  
hospital or agency shall admit the person in an unclassified 3145

status until making a disposition under this section. After the 3146  
examination, if the chief clinical officer of the hospital or 3147  
agency believes that the person is not a mentally ill person 3148  
subject to ~~hospitalization by~~ court order, the chief clinical 3149  
officer shall release or discharge the person immediately unless a 3150  
court has issued a temporary order of detention applicable to the 3151  
person under section 5122.11 of the Revised Code. After the 3152  
examination, if the chief clinical officer believes that the 3153  
person is a mentally ill person subject to ~~hospitalization by~~ 3154  
court order, the chief clinical officer may detain the person for 3155  
not more than three court days following the day of the 3156  
examination and during such period admit the person as a voluntary 3157  
patient under section 5122.02 of the Revised Code or file an 3158  
affidavit under section 5122.11 of the Revised Code. If neither 3159  
action is taken and a court has not otherwise issued a temporary 3160  
order of detention applicable to the person under section 5122.11 3161  
of the Revised Code, the chief clinical officer shall discharge 3162  
the person at the end of the three-day period unless the person 3163  
has been sentenced to the department of rehabilitation and 3164  
correction and has not been released from the person's sentence, 3165  
in which case the person shall be returned to that department. 3166

**Sec. 5122.11.** Proceedings for ~~the hospitalization of a person~~ 3167  
court-ordered treatment pursuant to sections 5122.11 to 5122.15 of 3168  
the Revised Code shall be commenced by the filing of an affidavit 3169  
in the manner ~~and form~~ prescribed by the department of mental 3170  
health and in a form prescribed in section 5122.111 of the Revised 3171  
Code, by any person or persons with the probate court, either on 3172  
reliable information or actual knowledge, whichever is determined 3173  
to be proper by the court. This section does not apply to the 3174  
hospitalization of a person pursuant to section 2945.39, 2945.40, 3175  
2945.401, or 2945.402 of the Revised Code. 3176

The affidavit shall contain an allegation setting forth the 3177

specific category or categories under division (B) of section 3178  
5122.01 of the Revised Code upon which the jurisdiction of the 3179  
court is based and a statement of alleged facts sufficient to 3180  
indicate probable cause to believe that the person is a mentally 3181  
ill person subject to ~~hospitalization by~~ court order. The 3182  
affidavit may be accompanied, or the court may require that the 3183  
affidavit be accompanied, by a certificate of a psychiatrist, or a 3184  
certificate signed by a licensed clinical psychologist and a 3185  
certificate signed by a licensed physician stating that the person 3186  
who issued the certificate has examined the person and is of the 3187  
opinion that the person is a mentally ill person subject to 3188  
~~hospitalization by~~ court order, or shall be accompanied by a 3189  
written statement by the applicant, under oath, that the person 3190  
has refused to submit to an examination by a psychiatrist, or by a 3191  
licensed clinical psychologist and licensed physician. 3192

Upon receipt of the affidavit, if a judge of the court or a 3193  
referee who is an attorney at law appointed by the court has 3194  
probable cause to believe that the person named in the affidavit 3195  
is a mentally ill person subject to ~~hospitalization by~~ court 3196  
order, the judge or referee may issue a temporary order of 3197  
detention ordering any health or police officer or sheriff to take 3198  
into custody and transport the person to a hospital or other place 3199  
designated in section 5122.17 of the Revised Code, or may set the 3200  
matter for further hearing. 3201

The person may be observed and treated until the hearing 3202  
provided for in section 5122.141 of the Revised Code. If no such 3203  
hearing is held, the person may be observed and treated until the 3204  
hearing provided for in section 5122.15 of the Revised Code. 3205

Sec. 5122.111. To initiate proceedings for court-ordered 3206  
treatment of a person under section 5122.11 of the Revised Code, a 3207  
person or persons shall file an affidavit with the probate court 3208

that is identical in form and content to the following: 3209

AFFIDAVIT OF MENTAL ILLNESS 3210

The State of Ohio 3211

..... County, ss. 3212

..... Court 3213

..... 3214

the undersigned, residing at 3215

..... 3216

says, that he/she has information to believe or has actual 3217

knowledge that 3218

..... 3219

(Please specify specific category(ies) below with an X.) 3220

[ ] Represents a substantial risk of physical harm to self as 3221

manifested by evidence of threats of, or attempts at, suicide or 3222

serious self-inflicted bodily harm; 3223

[ ] Represents a substantial risk of physical harm to others as 3224

manifested by evidence of recent homicidal or other violent 3225

behavior or evidence of recent threats that place another in 3226

reasonable fear of violent behavior and serious physical harm or 3227

other evidence of present dangerousness; 3228

[ ] Represents a substantial and immediate risk of serious 3229

physical impairment or injury to self as manifested by evidence of 3230

being unable to provide for and of not providing for basic 3231

physical needs because of mental illness and that appropriate 3232

provision for such needs cannot be made immediately available in 3233

the community; or 3234

[ ] Would benefit from court-ordered treatment due to all of the 3235

following: 3236

(a) The person is unlikely to voluntarily participate in 3237

treatment. 3238



(b) The person has demonstrated difficulty in adhering to 3239  
prescribed treatment. 3240

(c) The likelihood that, if the person is not treated, the 3241  
person's current condition will deteriorate to the point that the 3242  
person will meet the criterion in one of the three prior 3243  
paragraphs. 3244

..... 3245

(Name of the party filing the affidavit) further says that the 3246  
facts supporting this belief are as follows:

..... 3247

..... 3248

..... 3249

..... 3250

..... 3251

..... 3252

These facts being sufficient to indicate probable cause that the 3253  
above said person is a mentally ill person subject to 3254

court order. 3255

Name of Patient's Last Physician or Licensed Clinical Psychologist 3256

..... 3257

Address of Patient's Last Physician or Licensed Clinical 3258

Psychologist

..... 3259

..... 3260

The name and address of respondent's legal guardian, spouse, and 3261

adult next of kin are: 3262

<u>Name</u>	<u>Kinship</u>	<u>Address</u>	
.....		.....	3263
			3264
.....	<u>Legal Guardian</u>	.....	3265
		.....	3266
			3267
.....	<u>Spouse</u>	.....	3268
		.....	3269
			3270
.....	<u>Adult Next of Kin</u>	.....	3271
		.....	3272
			3273
.....	<u>Adult Next of Kin</u>	.....	3274
		.....	3275

The following constitutes additional information that may be 3276  
necessary for the purpose of determining residence: 3277  
..... 3278  
..... 3279  
..... 3280  
..... 3281  
..... 3282

Dated this ..... day of ....., 20... 3283

..... 3284  
Signature of the party filing the 3285  
affidavit

Sworn to before me and signed in my presence on the day and year 3286  
above dated. 3287

.....	3288
<u>Signature of Probate Judge</u>	3289
.....	3290
<u>Signature of Deputy Clerk</u>	3291
<u>WAIVER</u>	3292
<u>I, the undersigned party filing the affidavit hereby waive the</u>	3293
<u>issuing and service of notice of the hearing on said affidavit,</u>	3294
<u>and voluntarily enter my appearance herein.</u>	3295
<u>Dated this ..... day of ....., 20...</u>	3296
.....	3297
<u>Signature of the party filing the</u>	3298
<u>affidavit</u>	
<b>Sec. 5122.13.</b> Upon receipt of the affidavit required by	3300
section 5122.11 of the Revised Code, the <u>probate</u> court shall refer	3301
the affidavit to the board of alcohol, drug addiction, and mental	3302
health services or an agency the board designates to assist the	3303
court in determining whether the respondent is subject to	3304
hospitalization and whether alternative services <u>including</u>	3305
<u>outpatient treatment</u> are available, unless the agency or board has	3306
already performed such screening. The board or agency shall review	3307
the allegations of the affidavit and other information relating to	3308
whether or not the person named in the affidavit or statement is a	3309
mentally ill person subject to <del>hospitalization by</del> court order, and	3310
the availability of appropriate treatment alternatives.	3311

The person who conducts the investigation shall promptly make a report to the court, in writing, in open court or in chambers, as directed by the court and a full record of the report shall be made by the court. The report is not admissible as evidence for the purpose of establishing whether or not the respondent is a mentally ill person subject to ~~hospitalization by~~ court order, but shall be considered by the court in its determination of an appropriate placement for any person after that person is found to be a mentally ill person subject to ~~hospitalization~~ court order.

The court, prior to the hearing under section 5122.141 of the Revised Code, shall release a copy of the investigative report to the respondent's counsel.

Nothing in this section precludes a judge or referee from issuing a temporary order of detention pursuant to section 5122.11 of the Revised Code.

**Sec. 5122.141.** (A) A respondent who is involuntarily placed in a hospital or other place as designated in section 5122.10 or 5122.17 of the Revised Code, or with respect to whom proceedings have been instituted under section 5122.11 of the Revised Code, shall be afforded a hearing to determine whether or not the respondent is a mentally ill person subject to ~~hospitalization by~~ court order. The hearing shall be conducted pursuant to section 5122.15 of the Revised Code.

(B) The hearing shall be conducted within five court days from the day on which the respondent is detained or an affidavit is filed, whichever occurs first, in a physical setting not likely to have a harmful effect on the respondent, and may be conducted in a hospital in or out of the county. On the motion of the respondent, ~~his~~ the respondent's counsel, the chief clinical officer, or on its own motion, and for good cause shown, the court may order a continuance of the hearing. The continuance may be for

no more than ten days from the day on which the respondent is 3343  
detained or on which an affidavit is filed, whichever occurs 3344  
first. Failure to conduct the hearing within this time shall 3345  
effect an immediate discharge of the respondent. If the 3346  
proceedings are not reinstated within thirty days, all records 3347  
of the proceedings shall be expunged. 3348

(C) If the court does not find that the respondent is a 3349  
mentally ill person subject to ~~hospitalization by~~ court order, it 3350  
shall order ~~his~~ the respondent's immediate discharge, and shall 3351  
expunge all record of the proceedings during this period. 3352

(D) If the court finds that the respondent is a mentally ill 3353  
person subject to ~~hospitalization by~~ court order, the court may 3354  
issue an interim order of detention ordering any health or police 3355  
officer or sheriff to take into custody and transport such person 3356  
to a hospital or other place designated in section 5122.17 of the 3357  
Revised Code, where the respondent may be observed and treated. 3358

(E) A respondent or ~~his~~ a respondent's counsel, after 3359  
obtaining the consent of the respondent, may waive the hearing 3360  
provided for in this section. In such case, unless the person has 3361  
been discharged, a mandatory full hearing shall be held by the 3362  
thirtieth day after the original involuntary detention of the 3363  
respondent. Failure to conduct the mandatory full hearing within 3364  
this time limit shall result in the immediate discharge of the 3365  
respondent. 3366

(F) Where possible, the initial hearing shall be held before 3367  
the respondent is taken into custody. 3368

**Sec. 5122.15.** (A) Full hearings shall be conducted in a 3369  
manner consistent with this chapter and with due process of law. 3370  
The hearings shall be conducted by a judge of the probate court or 3371  
a referee designated by a judge of the probate court and may be 3372  
conducted in or out of the county in which the respondent is held. 3373

Any referee designated under this division shall be an attorney. 3374

(1) With the consent of the respondent, the following shall 3375  
be made available to counsel for the respondent: 3376

(a) All relevant documents, information, and evidence in the 3377  
custody or control of the state or prosecutor; 3378

(b) All relevant documents, information, and evidence in the 3379  
custody or control of the hospital in which the respondent 3380  
currently is held, or in which the respondent has been held 3381  
pursuant to this chapter; 3382

(c) All relevant documents, information, and evidence in the 3383  
custody or control of any hospital, facility, or person not 3384  
included in division (A)(1)(a) or (b) of this section. 3385

(2) The respondent has the right to attend the hearing and to 3386  
be represented by counsel of the respondent's choice. The right to 3387  
attend the hearing may be waived only by the respondent or counsel 3388  
for the respondent after consultation with the respondent. 3389

(3) If the respondent is not represented by counsel, is 3390  
absent from the hearing, and has not validly waived the right to 3391  
counsel, the court shall appoint counsel immediately to represent 3392  
the respondent at the hearing, reserving the right to tax costs of 3393  
appointed counsel to the respondent, unless it is shown that the 3394  
respondent is indigent. If the court appoints counsel, or if the 3395  
court determines that the evidence relevant to the respondent's 3396  
absence does not justify the absence, the court shall continue the 3397  
case. 3398

(4) The respondent shall be informed that the respondent may 3399  
retain counsel and have independent expert evaluation. If the 3400  
respondent is unable to obtain an attorney, the respondent shall 3401  
be represented by court-appointed counsel. If the respondent is 3402  
indigent, court-appointed counsel and independent expert 3403  
evaluation shall be provided as an expense under section 5122.43 3404

of the Revised Code. 3405

(5) The hearing shall be closed to the public, unless counsel 3406  
for the respondent, with the permission of the respondent, 3407  
requests that the hearing be open to the public. 3408

(6) If the hearing is closed to the public, the court, for 3409  
good cause shown, may admit persons who have a legitimate interest 3410  
in the proceedings. If the respondent, the respondent's counsel, 3411  
the designee of the director or of the chief clinical officer 3412  
objects to the admission of any person, the court shall hear the 3413  
objection and any opposing argument and shall rule upon the 3414  
admission of the person to the hearing. 3415

(7) The affiant under section 5122.11 of the Revised Code 3416  
shall be subject to subpoena by either party. 3417

(8) The court shall examine the sufficiency of all documents 3418  
filed and shall inform the respondent, if present, and the 3419  
respondent's counsel of the nature and content of the documents 3420  
and the reason for which the respondent is being detained, or for 3421  
which the respondent's placement is being sought. 3422

(9) The court shall receive only reliable, competent, and 3423  
material evidence. 3424

(10) Unless proceedings are initiated pursuant to section 3425  
5120.17 or 5139.08 of the Revised Code or proceedings are 3426  
initiated regarding a resident of the service district of a board 3427  
of alcohol, drug addiction, and mental health services that elects 3428  
under division (C)(2) of section 5119.62 of the Revised Code not 3429  
to accept the amount allocated to it under that section, an 3430  
attorney that the board designates shall present the case 3431  
demonstrating that the respondent is a mentally ill person subject 3432  
to ~~hospitalization by~~ court order. The attorney shall offer 3433  
evidence of the diagnosis, prognosis, record of treatment, if any, 3434  
and less restrictive treatment plans, if any. In proceedings 3435

pursuant to section 5120.17 or 5139.08 of the Revised Code and in 3436  
proceedings in which the respondent is a resident of a service 3437  
district of a board that elects under division (C)(2) of section 3438  
5119.62 of the Revised Code not to accept the amount allocated to 3439  
it under that section, the attorney general shall designate an 3440  
attorney who shall present the case demonstrating that the 3441  
respondent is a mentally ill person subject to ~~hospitalization by~~ 3442  
court order. The attorney shall offer evidence of the diagnosis, 3443  
prognosis, record of treatment, if any, and less restrictive 3444  
treatment plans, if any. 3445

(11) The respondent or the respondent's counsel has the right 3446  
to subpoena witnesses and documents and to examine and 3447  
cross-examine witnesses. 3448

(12) The respondent has the right, but shall not be 3449  
compelled, to testify, and shall be so advised by the court. 3450

(13) On motion of the respondent or the respondent's counsel 3451  
for good cause shown, or on the court's own motion, the court may 3452  
order a continuance of the hearing. 3453

(14) If the respondent is represented by counsel and the 3454  
respondent's counsel requests a transcript and record, or if the 3455  
respondent is not represented by counsel, the court shall make and 3456  
maintain a full transcript and record of the proceeding. If the 3457  
respondent is indigent and the transcript and record is made, a 3458  
copy shall be provided to the respondent upon request and be 3459  
treated as an expense under section 5122.43 of the Revised Code. 3460

(15) To the extent not inconsistent with this chapter, the 3461  
Rules of Civil Procedure are applicable. 3462

(B) Unless, upon completion of the hearing the court finds by 3463  
clear and convincing evidence that the respondent is a mentally 3464  
ill person subject to ~~hospitalization by~~ court order, it shall 3465  
order the respondent's discharge immediately. 3466



(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to ~~hospitalization by~~ court order, the court shall order the respondent for a period not to exceed ninety days to any of the following:

(1) A hospital operated by the department of mental health if the respondent is committed pursuant to section 5139.08 of the Revised Code;

(2) A nonpublic hospital;

(3) The veterans' administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates;

(5) Receive private psychiatric or psychological care and treatment;

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent.

(E) In determining the place to which, or the person, board, or agency with whom, the respondent is to be committed under division (C) of this section, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order

shall so state. 3497

(F) During ~~such~~ the ninety-day period the hospital; facility; 3498  
board of alcohol, drug addiction, and mental health services; 3499  
agency ~~the board designates~~; or person shall examine and treat the 3500  
individual. If the individual is receiving treatment in an 3501  
outpatient setting, or receives treatment in an outpatient setting 3502  
during a subsequent period of continued commitment under division 3503  
(H) of this section, the board, agency, or person to whom the 3504  
individual is committed shall determine the appropriate outpatient 3505  
treatment for the individual. If, at any time prior to the 3506  
expiration of the ninety-day period, it is determined by the 3507  
hospital, facility, board, agency, or person that the respondent's 3508  
treatment needs could be equally well met in an available and 3509  
appropriate less restrictive ~~environment~~ setting, both of the 3510  
following apply: 3511

(1) The respondent shall be released from the care of the 3512  
hospital, board, agency, facility, or person immediately and shall 3513  
be referred to the court together with a report of the findings 3514  
and recommendations of the hospital, board, agency, facility, or 3515  
person; and 3516

(2) The hospital, board, agency, facility, or person shall 3517  
notify the respondent's counsel or the attorney designated by a 3518  
board of alcohol, drug addiction, and mental health services or, 3519  
if the respondent was committed to a board or an agency designated 3520  
by the board, it shall place the respondent in the least 3521  
restrictive ~~environment~~ setting available consistent with 3522  
treatment goals and notify the court and the respondent's counsel 3523  
of the placement. 3524

The court shall dismiss the case or order placement in the 3525  
least restrictive ~~environment~~ setting. 3526

(G)(1) Except as provided in divisions (G)(2) and (3) of this 3527

section, any person who has been committed under this section, or 3528  
for whom proceedings for ~~hospitalization~~ treatment have been 3529  
commenced pursuant to section 5122.11 of the Revised Code, may 3530  
apply at any time for voluntary admission or commitment to the 3531  
hospital, facility, agency, ~~that the board designates~~, or person 3532  
to which the person was committed. Upon admission as a voluntary 3533  
patient the chief clinical officer of the hospital, agency, or 3534  
other facility, or the person immediately shall notify the court, 3535  
the patient's counsel, and the attorney designated by the board, 3536  
if the attorney has entered the proceedings, in writing of that 3537  
fact, and, upon receipt of the notice, the court shall dismiss the 3538  
case. 3539

(2) A person who is found incompetent to stand trial or not 3540  
guilty by reason of insanity and who is committed pursuant to 3541  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3542  
Code shall not voluntarily commit the person pursuant to this 3543  
section until after the final termination of the commitment, as 3544  
described in division (J) of section 2945.401 of the Revised Code. 3545

(H) If, at the end of the first ninety-day period or any 3546  
subsequent period of continued commitment, there has been no 3547  
disposition of the case, either by discharge or voluntary 3548  
admission or commitment, the hospital, facility, board, agency, or 3549  
person shall discharge the patient immediately, unless at least 3550  
ten days before the expiration of the period the attorney the 3551  
board designates or the prosecutor files with the court an 3552  
application for continued commitment. The application of the 3553  
attorney or the prosecutor shall include a written report 3554  
containing the diagnosis, prognosis, past treatment, a list of 3555  
alternative treatment settings and plans, and identification of 3556  
the treatment setting that is the least restrictive consistent 3557  
with treatment needs. The attorney the board designates or the 3558  
prosecutor shall file the written report at least three days prior 3559

to the full hearing. A copy of the application and written report 3560  
shall be provided to the respondent's counsel immediately. 3561

The court shall hold a full hearing on applications for 3562  
continued commitment at the expiration of the first ninety-day 3563  
period and at least every two years after the expiration of the 3564  
first ninety-day period. 3565

Hearings following any application for continued commitment 3566  
are mandatory and may not be waived. 3567

Upon request of a person who is involuntarily committed under 3568  
this section, or the person's counsel, that is made more than one 3569  
hundred eighty days after the person's last full hearing, 3570  
mandatory or requested, the court shall hold a full hearing on the 3571  
person's continued commitment. Upon the application of a person 3572  
involuntarily committed under this section, supported by an 3573  
affidavit of a psychiatrist or licensed clinical psychologist, 3574  
alleging that the person no longer is a mentally ill person 3575  
subject to ~~hospitalization by~~ court order, the court for good 3576  
cause shown may hold a full hearing on the person's continued 3577  
commitment prior to the expiration of one hundred eighty days 3578  
after the person's last full hearing. Section 5122.12 of the 3579  
Revised Code applies to all hearings on continued commitment. 3580

If the court, after a hearing for continued commitment finds 3581  
by clear and convincing evidence that the respondent is a mentally 3582  
ill person subject to ~~hospitalization by~~ court order, the court 3583  
may order continued commitment at places or to persons specified 3584  
in division (C) of this section. 3585

(I) Unless the admission is pursuant to section 5120.17 or 3586  
5139.08 of the Revised Code, the chief clinical officer of the 3587  
hospital or agency admitting a respondent pursuant to a judicial 3588  
proceeding, within ten working days of the admission, shall make a 3589  
report of the admission to the board of alcohol, drug addiction, 3590

and mental health services serving the respondent's county of 3591  
residence. 3592

(J) A referee appointed by the court may make all orders that 3593  
a judge may make under this section and sections 5122.11 and 3594  
5122.141 of the Revised Code, except an order of contempt of 3595  
court. The orders of a referee take effect immediately. Within 3596  
fourteen days of the making of an order by a referee, a party may 3597  
file written objections to the order with the court. The filed 3598  
objections shall be considered a motion, shall be specific, and 3599  
shall state their grounds with particularity. Within ten days of 3600  
the filing of the objections, a judge of the court shall hold a 3601  
hearing on the objections and may hear and consider any testimony 3602  
or other evidence relating to the respondent's mental condition. 3603  
At the conclusion of the hearing, the judge may ratify, rescind, 3604  
or modify the referee's order. 3605

(K) An order of the court under division (C), (H), or (J) of 3606  
this section is a final order. 3607

(L) Before a board, or an agency the board designates, may 3608  
place an unconsenting respondent in an inpatient setting from a 3609  
less restrictive placement, the board or agency shall do all of 3610  
the following: 3611

(1) Determine that the respondent is in immediate need of 3612  
treatment in an inpatient setting because the respondent 3613  
represents a substantial risk of physical harm to the respondent 3614  
or others if allowed to remain in a less restrictive setting; 3615

(2) On the day of placement in the inpatient setting or on 3616  
the next court day, file with the court a motion for transfer to 3617  
an inpatient setting or communicate to the court by telephone that 3618  
the required motion has been mailed; 3619

(3) Ensure that every reasonable and appropriate effort is 3620  
made to take the respondent to the inpatient setting in the least 3621

conspicuous manner possible; 3622

(4) Immediately notify the board's designated attorney and 3623  
the respondent's attorney. 3624

At the respondent's request, the court shall hold a hearing 3625  
on the motion and make a determination pursuant to division (E) of 3626  
this section within five days of the placement. 3627

(M) Before a board, or an agency the board designates, may 3628  
move a respondent from one residential placement to another, the 3629  
board or agency shall consult with the respondent about the 3630  
placement. If the respondent objects to the placement, the 3631  
proposed placement and the need for it shall be reviewed by a 3632  
qualified mental health professional who otherwise is not involved 3633  
in the treatment of the respondent. 3634

**Sec. 5122.19.** Every person transported to a hospital or 3635  
community mental health agency pursuant to sections 5122.11 to 3636  
5122.16 of the Revised Code, shall be examined by the staff of the 3637  
hospital or agency as soon as practicable after ~~his~~ arrival at the 3638  
hospital or agency. Such an examination shall be held within 3639  
twenty-four hours after the time of arrival, and if the chief 3640  
clinical officer fails after such an examination to certify that 3641  
in ~~his~~ the chief clinical officer's opinion the person is a 3642  
mentally ill person subject to ~~hospitalization by~~ court order, the 3643  
person shall be immediately released. 3644

**Sec. 5122.21.** (A) The chief clinical officer shall as 3645  
frequently as practicable, and at least once every thirty days, 3646  
examine or cause to be examined every patient, and, whenever the 3647  
chief clinical officer determines that the conditions justifying 3648  
involuntary hospitalization or commitment no longer obtain, shall 3649  
discharge the patient not under indictment or conviction for crime 3650  
and immediately make a report of the discharge to the department 3651

of mental health. The chief clinical officer may discharge a 3652  
patient who is under an indictment, a sentence of imprisonment, a 3653  
community control sanction, or a post-release control sanction or 3654  
on parole ten days after written notice of intent to discharge the 3655  
patient has been given by personal service or certified mail, 3656  
return receipt requested, to the court having criminal 3657  
jurisdiction over the patient. Except when the patient was found 3658  
not guilty by reason of insanity and the defendant's commitment is 3659  
pursuant to section 2945.40 of the Revised Code, the chief 3660  
clinical officer has final authority to discharge a patient who is 3661  
under an indictment, a sentence of imprisonment, a community 3662  
control sanction, or a post-release control sanction or on parole. 3663

(B) After a finding pursuant to section 5122.15 of the 3664  
Revised Code that a person is a mentally ill person subject to 3665  
~~hospitalization by~~ court order, the chief clinical officer of the 3666  
hospital or agency to which the person is ordered or to which the 3667  
person is transferred under section 5122.20 of the Revised Code, 3668  
may grant a discharge without the consent or authorization of any 3669  
court. 3670

Upon discharge from a hospital, the chief clinical officer 3671  
shall notify the court that caused the judicial hospitalization of 3672  
the discharge from the hospital. 3673

**Sec. 5122.27.** The chief clinical officer of the hospital or 3674  
~~his~~ the chief clinical officer's designee shall assure that all 3675  
patients hospitalized or committed pursuant to this chapter shall: 3676

(A) Receive, within twenty days of their admission sufficient 3677  
professional care to assure that an evaluation of current status, 3678  
differential diagnosis, probable prognosis, and description of the 3679  
current treatment plan is stated on the official chart; 3680

(B) Have a written treatment plan consistent with the 3681

evaluation, diagnosis, prognosis, and goals which shall be 3682  
provided, upon request of the patient or patient's counsel, to the 3683  
patient's counsel and to any private physician or licensed 3684  
clinical psychologist designated by the patient or ~~his~~ the 3685  
patient's counsel or to the legal rights service; 3686

(C) Receive treatment consistent with the treatment plan. The 3687  
department of mental health shall set standards for treatment 3688  
provided to such patients, consistent wherever possible with 3689  
standards set by the joint commission on accreditation of 3690  
healthcare organizations. 3691

(D) Receive periodic reevaluations of the treatment plan by 3692  
the professional staff at intervals not to exceed ninety days; 3693

(E) Be provided with adequate medical treatment for physical 3694  
disease or injury; 3695

(F) Receive humane care and treatment, including without 3696  
limitation, the following: 3697

(1) The least restrictive environment consistent with the 3698  
treatment plan; 3699

(2) The necessary facilities and personnel required by the 3700  
treatment plan; 3701

(3) A humane psychological and physical environment; 3702

(4) The right to obtain current information concerning ~~his~~ 3703  
the patient's treatment program and expectations in terms that ~~he~~ 3704  
the patient can reasonably understand; 3705

(5) Participation in programs designed to afford ~~him~~ the 3706  
patient substantial opportunity to acquire skills to facilitate 3707  
~~his~~ return to the community or to terminate an involuntary 3708  
commitment; 3709

(6) The right to be free from unnecessary or excessive 3710  
medication; 3711



(7) Freedom from restraints or isolation unless it is stated 3712  
in a written order by the chief clinical officer or ~~his~~ the chief 3713  
clinical officer's designee, or the patient's individual physician 3714  
or psychologist in a private or general hospital. 3715

(G) Be notified of their rights under the law within 3716  
twenty-four hours of admission, according to rules established by 3717  
the legal rights service. 3718

If the chief clinical officer of the hospital is unable to 3719  
provide the treatment required by divisions (C), (E), and (F) of 3720  
this section for any patient hospitalized pursuant to Chapter 3721  
5122. of the Revised Code, ~~he~~ the chief clinical officer shall 3722  
immediately notify the patient, the court, the legal rights 3723  
service, the director of mental health, and the patient's counsel 3724  
and legal guardian, if known. If within ten days after receipt of 3725  
such notification by the director, ~~he~~ the director is unable to 3726  
effect a transfer of the patient, pursuant to section 5122.20 of 3727  
the Revised Code, to a hospital, community mental health agency, 3728  
or other medical facility where treatment is available, or has not 3729  
received an order of the court to the contrary, the involuntary 3730  
commitment of any patient hospitalized pursuant to Chapter 5122. 3731  
of the Revised Code and defined as a mentally ill person subject 3732  
to ~~hospitalization by~~ court order under division (B)(4) of section 3733  
5122.01 of the Revised Code shall automatically be terminated. 3734

**Sec. 5122.30.** Any person detained pursuant to this chapter or 3735  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3736  
Code shall be entitled to the writ of habeas corpus upon proper 3737  
petition by self or by a friend to any court generally empowered 3738  
to issue the writ of habeas corpus in the county in which the 3739  
person is detained. 3740

No person may bring a petition for a writ of habeas corpus 3741  
that alleges that a person involuntarily detained pursuant to this 3742

chapter no longer is a mentally ill person subject to 3743  
~~hospitalization by~~ court order unless the person shows that the 3744  
release procedures of division (H) of section 5122.15 of the 3745  
Revised Code are inadequate or unavailable. 3746

**Sec. 5122.31.** (A) All certificates, applications, records, 3747  
and reports made for the purpose of this chapter and sections 3748  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 3749  
Code, other than court journal entries or court docket entries, 3750  
and directly or indirectly identifying a patient or former patient 3751  
or person whose hospitalization or commitment has been sought 3752  
under this chapter, shall be kept confidential and shall not be 3753  
disclosed by any person except: 3754

(1) If the person identified, or the person's legal guardian, 3755  
if any, or if the person is a minor, the person's parent or legal 3756  
guardian, consents, and if the disclosure is in the best interests 3757  
of the person, as may be determined by the court for judicial 3758  
records and by the chief clinical officer for medical records; 3759

(2) When disclosure is provided for in this chapter or 3760  
section 5123.60 of the Revised Code; 3761

(3) That hospitals, boards of alcohol, drug addiction, and 3762  
mental health services, and community mental health agencies may 3763  
release necessary medical information to insurers and other 3764  
third-party payers, including government entities responsible for 3765  
processing and authorizing payment, to obtain payment for goods 3766  
and services furnished to the patient; 3767

(4) Pursuant to a court order signed by a judge; 3768

(5) That a patient shall be granted access to the patient's 3769  
own psychiatric and medical records, unless access specifically is 3770  
restricted in a patient's treatment plan for clear treatment 3771  
reasons; 3772

(6) That hospitals and other institutions and facilities 3773  
within the department of mental health may exchange psychiatric 3774  
records and other pertinent information with other hospitals, 3775  
institutions, and facilities of the department, and with community 3776  
mental health agencies and boards of alcohol, drug addiction, and 3777  
mental health services with which the department has a current 3778  
agreement for patient care or services. Records and information 3779  
that may be released pursuant to this division shall be limited to 3780  
medication history, physical health status and history, financial 3781  
status, summary of course of treatment in the hospital, summary of 3782  
treatment needs, and a discharge summary, if any. 3783

(7) That hospitals within the department, other institutions 3784  
and facilities within the department, hospitals licensed by the 3785  
department under section 5119.20 of the Revised Code, and 3786  
community mental health agencies may exchange psychiatric records 3787  
and other pertinent information with payers and other providers of 3788  
treatment and health services if the purpose of the exchange is to 3789  
facilitate continuity of care for a patient; 3790

(8) That a patient's family member who is involved in the 3791  
provision, planning, and monitoring of services to the patient may 3792  
receive medication information, a summary of the patient's 3793  
diagnosis and prognosis, and a list of the services and personnel 3794  
available to assist the patient and the patient's family, if the 3795  
patient's treating physician determines that the disclosure would 3796  
be in the best interests of the patient. No such disclosure shall 3797  
be made unless the patient is notified first and receives the 3798  
information and does not object to the disclosure. 3799

(9) That community mental health agencies may exchange 3800  
psychiatric records and certain other information with the board 3801  
of alcohol, drug addiction, and mental health services and other 3802  
agencies in order to provide services to a person involuntarily 3803  
committed to a board. Release of records under this division shall 3804

be limited to medication history, physical health status and 3805  
history, financial status, summary of course of treatment, summary 3806  
of treatment needs, and discharge summary, if any. 3807

(10) That information may be disclosed to the executor or the 3808  
administrator of an estate of a deceased patient when the 3809  
information is necessary to administer the estate; 3810

(11) That records in the possession of the Ohio historical 3811  
society may be released to the closest living relative of a 3812  
deceased patient upon request of that relative; 3813

(12) That information may be disclosed to staff members of 3814  
the appropriate board or to staff members designated by the 3815  
director of mental health for the purpose of evaluating the 3816  
quality, effectiveness, and efficiency of services and determining 3817  
if the services meet minimum standards. Information obtained 3818  
during such evaluations shall not be retained with the name of any 3819  
patient. 3820

(13) That records pertaining to the patient's diagnosis, 3821  
course of treatment, treatment needs, and prognosis shall be 3822  
disclosed and released to the appropriate prosecuting attorney if 3823  
the patient was committed pursuant to section 2945.38, 2945.39, 3824  
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 3825  
attorney designated by the board for proceedings pursuant to 3826  
involuntary commitment under this chapter. 3827

(14) That the department of mental health may exchange 3828  
psychiatric hospitalization records, other mental health treatment 3829  
records, and other pertinent information with the department of 3830  
rehabilitation and correction to ensure continuity of care for 3831  
inmates who are receiving mental health services in an institution 3832  
of the department of rehabilitation and correction. The department 3833  
shall not disclose those records unless the inmate is notified, 3834  
receives the information, and does not object to the disclosure. 3835

The release of records under this division is limited to records 3836  
regarding an inmate's medication history, physical health status 3837  
and history, summary of course of treatment, summary of treatment 3838  
needs, and a discharge summary, if any. 3839

(15) That a community mental health agency that ceases to 3840  
operate may transfer to either a community mental health agency 3841  
that assumes its caseload or to the board of alcohol, drug 3842  
addiction, and mental health services of the service district in 3843  
which the patient resided at the time services were most recently 3844  
provided any treatment records that have not been transferred 3845  
elsewhere at the patient's request. 3846

(B) Before records are disclosed pursuant to divisions 3847  
(A)(3), (6), (7), and (9) of this section, the custodian of the 3848  
records shall attempt to obtain the patient's consent for the 3849  
disclosure. No person shall reveal the contents of a medical 3850  
record of a patient except as authorized by law. 3851

(C) The managing officer of a hospital who releases necessary 3852  
medical information under division (A)(3) of this section to allow 3853  
an insurance carrier or other third party payor to comply with 3854  
section 5121.43 of the Revised Code shall neither be subject to 3855  
criminal nor civil liability. 3856

**Sec. 5122.311.** (A) Notwithstanding any provision of the 3857  
Revised Code to the contrary, if, on or after ~~the effective date~~ 3858  
~~of this section~~ April 8, 2004, an individual is found by a court 3859  
to be a mentally ill person subject to ~~hospitalization by~~ court 3860  
order or becomes an involuntary patient other than one who is a 3861  
patient only for purposes of observation, the probate judge who 3862  
made the adjudication or the chief clinical officer of the 3863  
hospital, agency, or facility in which the person is an 3864  
involuntary patient shall notify the bureau of criminal 3865  
identification and investigation, on the form described in 3866

division (C) of this section, of the identity of the individual. 3867  
The notification shall be transmitted by the judge or the chief 3868  
clinical officer not later than seven days after the adjudication 3869  
or commitment. 3870

(B) The bureau of criminal identification and investigation 3871  
shall compile and maintain the notices it receives under division 3872  
(A) of this section and shall use them for the purpose of 3873  
conducting incompetency records checks pursuant to section 311.41 3874  
of the Revised Code. The notices and the information they contain 3875  
are confidential, except as provided in this division, and are not 3876  
public records. 3877

(C) The attorney general, by rule adopted under Chapter 119. 3878  
of the Revised Code, shall prescribe and make available to all 3879  
probate judges and all chief clinical officers a form to be used 3880  
by them for the purpose of making the notifications required by 3881  
division (A) of this section. 3882

**Sec. 5139.54.** (A) Notwithstanding any other provision for 3883  
determining when a child shall be released or discharged from the 3884  
legal custody of the department of youth services, including 3885  
jurisdictional provisions in section 2152.22 of the Revised Code, 3886  
the release authority, for medical reasons, may release a child 3887  
upon supervised release or discharge the child from the custody of 3888  
the department when any of the following applies: 3889

(1) The child is terminally ill or otherwise in imminent 3890  
danger of death. 3891

(2) The child is incapacitated due to injury, disease, 3892  
illness, or other medical condition and is no longer a threat to 3893  
public safety. 3894

(3) The child appears to be a mentally ill person subject to 3895  
~~hospitalization by~~ court order, as defined in section 5122.01 of 3896

the Revised Code, or a mentally retarded person subject to 3897  
institutionalization by court order, as defined in section 5123.01 3898  
of the Revised Code. 3899

(B) When considering whether to release or discharge a child 3900  
under this section for medical reasons, the release authority may 3901  
request additional medical information about the child or may ask 3902  
the department to conduct additional medical examinations. 3903

(C) The release authority shall determine the appropriate 3904  
level of supervised release for a child released under this 3905  
section. The terms and conditions of the release may require 3906  
periodic medical reevaluations as appropriate. Upon granting a 3907  
release or discharge under this section, the release authority 3908  
shall give notice of the release and its terms and conditions or 3909  
of the discharge to the court that committed the child to the 3910  
custody of the department. 3911

(D) The release authority shall submit annually to the 3912  
director of youth services a report that includes all of the 3913  
following information for the previous calendar year: 3914

(1) The number of children the release authority considered 3915  
for medical release or discharge; 3916

(2) The nature of the injury, disease, illness, or other 3917  
medical condition of each child considered for medical release or 3918  
discharge; 3919

(3) The decision made by the release authority for each 3920  
child, including the reasons for denying medical release or 3921  
discharge or for granting it; 3922

(4) The number of children on medical release who were 3923  
returned to a secure facility or whose supervised release was 3924  
revoked. 3925

**Sec. 5305.22.** (A) Any real estate or interest in real estate 3926

coming to a person by purchase, inheritance, or otherwise, after 3927  
the spouse of the person is adjudged a mentally ill person subject 3928  
to ~~hospitalization by~~ court order and admitted to either a 3929  
hospital for persons with mental illness in this or any other 3930  
state of the United States or the psychiatric department of any 3931  
hospital of the United States, may be conveyed by the person while 3932  
the person's spouse who is a mentally ill person subject to 3933  
~~hospitalization by~~ court order remains a patient of that hospital, 3934  
free and clear from any dower right or expectancy of the person's 3935  
spouse who is a mentally ill person subject to ~~hospitalization by~~ 3936  
court order. Dower shall not attach to any real estate so acquired 3937  
and conveyed during the time described in this section in favor of 3938  
such spouse who is a mentally ill person subject to 3939  
~~hospitalization by~~ court order. The indorsement upon the 3940  
instrument of conveyance, by the superintendent of the hospital to 3941  
which the spouse was admitted, that the spouse of the person 3942  
conveying the real estate is a mentally ill person subject to 3943  
~~hospitalization by~~ court order who has been admitted to that 3944  
hospital, stating when received in that hospital and signed 3945  
officially by the superintendent, shall be sufficient evidence of 3946  
the fact that the spouse of the person conveying the real estate 3947  
is a mentally ill person subject to ~~hospitalization by~~ court 3948  
order. This indorsement shall be a part of the instrument of 3949  
conveyance. 3950

(B) As used in this section, "mentally ill person subject to 3951  
~~hospitalization by~~ court order" has the same meaning as in section 3952  
5122.01 of the Revised Code. 3953

**Sec. 5907.06.** (A) A mentally ill person subject to 3954  
~~hospitalization by~~ court order whose mental condition causes the 3955  
person to be dangerous to the community shall not be admitted to a 3956  
veterans' home. If a mentally ill person subject to 3957  
~~hospitalization by~~ court order, through misrepresentation as to 3958



the person's condition, is sent to a home, the person shall be 3959  
returned to, and the expense of the return shall be borne by, the 3960  
county from which the person came. 3961

(B) As used in this section, "mentally ill person subject to 3962  
~~hospitalization by~~ court order" has the same meaning as in section 3963  
5122.01 of the Revised Code. 3964

**Sec. 5907.09.** (A) When the affidavit referred to in section 3965  
5907.08 of the Revised Code is filed, the probate judge shall 3966  
forthwith determine whether the resident is a mentally ill person 3967  
subject to ~~hospitalization by~~ court order. Insofar as applicable, 3968  
the laws governing in cases of admission to a state hospital for 3969  
persons with mental illness shall apply. The probate judge shall 3970  
have the same authority, and may receive and order paid the same 3971  
fees and costs, as the probate judge would have in the county in 3972  
which the veteran was a resident at the time of entering the 3973  
veterans' home. 3974

(B) As used in this section, "mentally ill person subject to 3975  
~~hospitalization by~~ court order" has the same meaning as in section 3976  
5122.01 of the Revised Code. 3977

**Section 2.** That existing sections 2151.011, 2151.23, 3978  
2923.125, 2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2945.40, 3979  
2945.401, 2967.22, 5119.23, 5120.17, 5122.01, 5122.03, 5122.05, 3980  
5122.10, 5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 3981  
5122.27, 5122.30, 5122.31, 5122.311, 5139.54, 5305.22, 5907.06, 3982  
and 5907.09 of the Revised Code are hereby repealed. 3983

**Section 3.** That the versions of sections 5122.01, 5122.27, 3984  
and 5122.31 of the Revised Code that are scheduled to take effect 3985  
on October 1, 2012, be amended to read as follows: 3986

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of 3987

the Revised Code: 3988

(A) "Mental illness" means a substantial disorder of thought, 3989  
mood, perception, orientation, or memory that grossly impairs 3990  
judgment, behavior, capacity to recognize reality, or ability to 3991  
meet the ordinary demands of life. 3992

(B) "Mentally ill person subject to ~~hospitalization by~~ court 3993  
order" means a mentally ill person who, because of the person's 3994  
illness: 3995

(1) Represents a substantial risk of physical harm to self as 3996  
manifested by evidence of threats of, or attempts at, suicide or 3997  
serious self-inflicted bodily harm; 3998

(2) Represents a substantial risk of physical harm to others 3999  
as manifested by evidence of recent homicidal or other violent 4000  
behavior, evidence of recent threats that place another in 4001  
reasonable fear of violent behavior and serious physical harm, or 4002  
other evidence of present dangerousness; 4003

(3) Represents a substantial and immediate risk of serious 4004  
physical impairment or injury to self as manifested by evidence 4005  
that the person is unable to provide for and is not providing for 4006  
the person's basic physical needs because of the person's mental 4007  
illness and that appropriate provision for those needs cannot be 4008  
made immediately available in the community; or 4009

(4) ~~Would benefit from treatment in a hospital for the~~ 4010  
~~person's mental illness and is in need of such treatment as~~ 4011  
~~manifested by evidence of behavior that creates a grave and~~ 4012  
~~imminent risk to substantial rights of others or the person~~ due to 4013  
all of the following: 4014

(a) The person is unlikely to voluntarily participate in 4015  
treatment. 4016

(b) The person has demonstrated difficulty in adhering to 4017

prescribed treatment. 4018

(c) The likelihood that, if the person is not treated, the 4019  
person's current condition will deteriorate to the point that the 4020  
person will meet the criterion in division (B)(1), (2), or (3) of 4021  
this section. 4022

(C)(1) "Patient" means, subject to division (C)(2) of this 4023  
section, a person who is admitted either voluntarily or 4024  
involuntarily to a hospital or other place under section 2945.39, 4025  
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 4026  
finding of not guilty by reason of insanity or incompetence to 4027  
stand trial or under this chapter, who is under observation or 4028  
receiving treatment in such place. 4029

(2) "Patient" does not include a person admitted to a 4030  
hospital or other place under section 2945.39, 2945.40, 2945.401, 4031  
or 2945.402 of the Revised Code to the extent that the reference 4032  
in this chapter to patient, or the context in which the reference 4033  
occurs, is in conflict with any provision of sections 2945.37 to 4034  
2945.402 of the Revised Code. 4035

(D) "Licensed physician" means a person licensed under the 4036  
laws of this state to practice medicine or a medical officer of 4037  
the government of the United States while in this state in the 4038  
performance of the person's official duties. 4039

(E) "Psychiatrist" means a licensed physician who has 4040  
satisfactorily completed a residency training program in 4041  
psychiatry, as approved by the residency review committee of the 4042  
American medical association, the committee on post-graduate 4043  
education of the American osteopathic association, or the American 4044  
osteopathic board of neurology and psychiatry, or who on July 1, 4045  
1989, has been recognized as a psychiatrist by the Ohio state 4046  
medical association or the Ohio osteopathic association on the 4047  
basis of formal training and five or more years of medical 4048

practice limited to psychiatry. 4049

(F) "Hospital" means a hospital or inpatient unit licensed by 4050  
the department of mental health under section 5119.20 of the 4051  
Revised Code, and any institution, hospital, or other place 4052  
established, controlled, or supervised by the department under 4053  
Chapter 5119. of the Revised Code. 4054

(G) "Public hospital" means a facility that is tax-supported 4055  
and under the jurisdiction of the department of mental health. 4056

(H) "Community mental health agency" means an agency that 4057  
provides community mental health services that are certified by 4058  
the director of mental health under section 5119.611 of the 4059  
Revised Code. 4060

(I) "Licensed clinical psychologist" means a person who holds 4061  
a current valid psychologist license issued under section 4732.12 4062  
or 4732.15 of the Revised Code, and in addition, meets either of 4063  
the following criteria: 4064

(1) Meets the educational requirements set forth in division 4065  
(B) of section 4732.10 of the Revised Code and has a minimum of 4066  
two years' full-time professional experience, or the equivalent as 4067  
determined by rule of the state board of psychology, at least one 4068  
year of which shall be a predoctoral internship, in clinical 4069  
psychological work in a public or private hospital or clinic or in 4070  
private practice, diagnosing and treating problems of mental 4071  
illness or mental retardation under the supervision of a 4072  
psychologist who is licensed or who holds a diploma issued by the 4073  
American board of professional psychology, or whose qualifications 4074  
are substantially similar to those required for licensure by the 4075  
state board of psychology when the supervision has occurred prior 4076  
to enactment of laws governing the practice of psychology; 4077

(2) Meets the educational requirements set forth in division 4078  
(B) of section 4732.15 of the Revised Code and has a minimum of 4079

four years' full-time professional experience, or the equivalent 4080  
as determined by rule of the state board of psychology, in 4081  
clinical psychological work in a public or private hospital or 4082  
clinic or in private practice, diagnosing and treating problems of 4083  
mental illness or mental retardation under supervision, as set 4084  
forth in division (I)(1) of this section. 4085

(J) "Health officer" means any public health physician; 4086  
public health nurse; or other person authorized by or designated 4087  
by a city health district; a general health district; or a board 4088  
of alcohol, drug addiction, and mental health services to perform 4089  
the duties of a health officer under this chapter. 4090

(K) "Chief clinical officer" means the medical director of a 4091  
hospital, or a community mental health agency, or a board of 4092  
alcohol, drug addiction, and mental health services, or, if there 4093  
is no medical director, the licensed physician responsible for the 4094  
treatment a hospital or community mental health agency provides. 4095  
The chief clinical officer may delegate to the attending physician 4096  
responsible for a patient's care the duties imposed on the chief 4097  
clinical officer by this chapter. Within a community mental health 4098  
agency, the chief clinical officer shall be designated by the 4099  
governing body of the agency and shall be a licensed physician or 4100  
licensed clinical psychologist who supervises diagnostic and 4101  
treatment services. A licensed physician or licensed clinical 4102  
psychologist designated by the chief clinical officer may perform 4103  
the duties and accept the responsibilities of the chief clinical 4104  
officer in the chief clinical officer's absence. 4105

(L) "Working day" or "court day" means Monday, Tuesday, 4106  
Wednesday, Thursday, and Friday, except when such day is a 4107  
holiday. 4108

(M) "Indigent" means unable without deprivation of 4109  
satisfaction of basic needs to provide for the payment of an 4110  
attorney and other necessary expenses of legal representation, 4111

including expert testimony. 4112

(N) "Respondent" means the person whose detention, 4113  
commitment, hospitalization, continued hospitalization or 4114  
commitment, or discharge is being sought in any proceeding under 4115  
this chapter. 4116

(O) "Ohio protection and advocacy system" has the same 4117  
meaning as in section 5123.60 of the Revised Code. 4118

(P) "Independent expert evaluation" means an evaluation 4119  
conducted by a licensed clinical psychologist, psychiatrist, or 4120  
licensed physician who has been selected by the respondent or the 4121  
respondent's counsel and who consents to conducting the 4122  
evaluation. 4123

(Q) "Court" means the probate division of the court of common 4124  
pleas. 4125

(R) "Expunge" means: 4126

(1) The removal and destruction of court files and records, 4127  
originals and copies, and the deletion of all index references; 4128

(2) The reporting to the person of the nature and extent of 4129  
any information about the person transmitted to any other person 4130  
by the court; 4131

(3) Otherwise insuring that any examination of court files 4132  
and records in question shall show no record whatever with respect 4133  
to the person; 4134

(4) That all rights and privileges are restored, and that the 4135  
person, the court, and any other person may properly reply that no 4136  
such record exists, as to any matter expunged. 4137

(S) "Residence" means a person's physical presence in a 4138  
county with intent to remain there, except that: 4139

(1) If a person is receiving a mental health service at a 4140  
facility that includes nighttime sleeping accommodations, 4141

residence means that county in which the person maintained the 4142  
person's primary place of residence at the time the person entered 4143  
the facility; 4144

(2) If a person is committed pursuant to section 2945.38, 4145  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 4146  
residence means the county where the criminal charges were filed. 4147

When the residence of a person is disputed, the matter of 4148  
residence shall be referred to the department of mental health for 4149  
investigation and determination. Residence shall not be a basis 4150  
for a board's denying services to any person present in the 4151  
board's service district, and the board shall provide services for 4152  
a person whose residence is in dispute while residence is being 4153  
determined and for a person in an emergency situation. 4154

(T) "Admission" to a hospital or other place means that a 4155  
patient is accepted for and stays at least one night at the 4156  
hospital or other place. 4157

(U) "Prosecutor" means the prosecuting attorney, village 4158  
solicitor, city director of law, or similar chief legal officer 4159  
who prosecuted a criminal case in which a person was found not 4160  
guilty by reason of insanity, who would have had the authority to 4161  
prosecute a criminal case against a person if the person had not 4162  
been found incompetent to stand trial, or who prosecuted a case in 4163  
which a person was found guilty. 4164

(V) "Treatment plan" means a written statement of reasonable 4165  
objectives and goals for an individual established by the 4166  
treatment team, with specific criteria to evaluate progress 4167  
towards achieving those objectives. The active participation of 4168  
the patient in establishing the objectives and goals shall be 4169  
documented. The treatment plan shall be based on patient needs and 4170  
include services to be provided to the patient while the patient 4171  
is hospitalized ~~and~~, after the patient is discharged, or in an 4172

outpatient setting. The treatment plan shall address services to 4173  
be provided ~~upon discharge, including.~~ The services may include, 4174  
but are not limited to ~~housing, financial, and vocational services~~ 4175  
all of the following: 4176

(1) Community psychiatric supportive treatment; 4177

(2) Assertive community treatment; 4178

(3) Medications; 4179

(4) Individual or group therapy; 4180

(5) Peer support services; 4181

(6) Financial services; 4182

(7) Housing or supervised living services; 4183

(8) Alcohol or substance abuse treatment; 4184

(9) Any other services prescribed to treat the patient's 4185  
mental illness and to either assist the patient in living and 4186  
functioning in the community or to help prevent a relapse or a 4187  
deterioration of the patient's current condition. 4188

(W) "Community control sanction" has the same meaning as in 4189  
section 2929.01 of the Revised Code. 4190

(X) "Post-release control sanction" has the same meaning as 4191  
in section 2967.01 of the Revised Code. 4192

**Sec. 5122.27.** The chief clinical officer of the hospital or 4193  
the chief clinical officer's designee shall assure that all 4194  
patients hospitalized or committed pursuant to this chapter shall: 4195

(A) Receive, within twenty days of their admission sufficient 4196  
professional care to assure that an evaluation of current status, 4197  
differential diagnosis, probable prognosis, and description of the 4198  
current treatment plan is stated on the official chart; 4199

(B) Have a written treatment plan consistent with the 4200



evaluation, diagnosis, prognosis, and goals which shall be 4201  
provided, upon request of the patient or patient's counsel, to the 4202  
patient's counsel and to any private physician or licensed 4203  
clinical psychologist designated by the patient or the patient's 4204  
counsel or to the Ohio protection and advocacy system; 4205

(C) Receive treatment consistent with the treatment plan. The 4206  
department of mental health shall set standards for treatment 4207  
provided to such patients, consistent wherever possible with 4208  
standards set by the joint commission on accreditation of 4209  
healthcare organizations. 4210

(D) Receive periodic reevaluations of the treatment plan by 4211  
the professional staff at intervals not to exceed ninety days; 4212

(E) Be provided with adequate medical treatment for physical 4213  
disease or injury; 4214

(F) Receive humane care and treatment, including without 4215  
limitation, the following: 4216

(1) The least restrictive environment consistent with the 4217  
treatment plan; 4218

(2) The necessary facilities and personnel required by the 4219  
treatment plan; 4220

(3) A humane psychological and physical environment; 4221

(4) The right to obtain current information concerning the 4222  
patient's treatment program and expectations in terms that the 4223  
patient can reasonably understand; 4224

(5) Participation in programs designed to afford the patient 4225  
substantial opportunity to acquire skills to facilitate return to 4226  
the community or to terminate an involuntary commitment; 4227

(6) The right to be free from unnecessary or excessive 4228  
medication; 4229

(7) Freedom from restraints or isolation unless it is stated 4230

in a written order by the chief clinical officer or the chief 4231  
clinical officer's designee, or the patient's individual physician 4232  
or psychologist in a private or general hospital. 4233

If the chief clinical officer of the hospital is unable to 4234  
provide the treatment required by divisions (C), (E), and (F) of 4235  
this section for any patient hospitalized pursuant to Chapter 4236  
5122. of the Revised Code, the chief clinical officer shall 4237  
immediately notify the patient, the court, the Ohio protection and 4238  
advocacy system, the director of mental health, and the patient's 4239  
counsel and legal guardian, if known. If within ten days after 4240  
receipt of such notification by the director, the director is 4241  
unable to effect a transfer of the patient, pursuant to section 4242  
5122.20 of the Revised Code, to a hospital, community mental 4243  
health agency, or other medical facility where treatment is 4244  
available, or has not received an order of the court to the 4245  
contrary, the involuntary commitment of any patient hospitalized 4246  
pursuant to Chapter 5122. of the Revised Code and defined as a 4247  
mentally ill person subject to ~~hospitalization by~~ court order 4248  
under division (B)(4) of section 5122.01 of the Revised Code shall 4249  
automatically be terminated. 4250

**Sec. 5122.31.** (A) All certificates, applications, records, 4251  
and reports made for the purpose of this chapter and sections 4252  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 4253  
Code, other than court journal entries or court docket entries, 4254  
and directly or indirectly identifying a patient or former patient 4255  
or person whose hospitalization or commitment has been sought 4256  
under this chapter, shall be kept confidential and shall not be 4257  
disclosed by any person except: 4258

(1) If the person identified, or the person's legal guardian, 4259  
if any, or if the person is a minor, the person's parent or legal 4260  
guardian, consents, and if the disclosure is in the best interests 4261

of the person, as may be determined by the court for judicial	4262
records and by the chief clinical officer for medical records;	4263
(2) When disclosure is provided for in this chapter or	4264
section 5123.601 of the Revised Code;	4265
(3) That hospitals, boards of alcohol, drug addiction, and	4266
mental health services, and community mental health agencies may	4267
release necessary medical information to insurers and other	4268
third-party payers, including government entities responsible for	4269
processing and authorizing payment, to obtain payment for goods	4270
and services furnished to the patient;	4271
(4) Pursuant to a court order signed by a judge;	4272
(5) That a patient shall be granted access to the patient's	4273
own psychiatric and medical records, unless access specifically is	4274
restricted in a patient's treatment plan for clear treatment	4275
reasons;	4276
(6) That hospitals and other institutions and facilities	4277
within the department of mental health may exchange psychiatric	4278
records and other pertinent information with other hospitals,	4279
institutions, and facilities of the department, and with community	4280
mental health agencies and boards of alcohol, drug addiction, and	4281
mental health services with which the department has a current	4282
agreement for patient care or services. Records and information	4283
that may be released pursuant to this division shall be limited to	4284
medication history, physical health status and history, financial	4285
status, summary of course of treatment in the hospital, summary of	4286
treatment needs, and a discharge summary, if any.	4287
(7) That hospitals within the department, other institutions	4288
and facilities within the department, hospitals licensed by the	4289
department under section 5119.20 of the Revised Code, and	4290
community mental health agencies may exchange psychiatric records	4291
and other pertinent information with payers and other providers of	4292

treatment and health services if the purpose of the exchange is to 4293  
facilitate continuity of care for a patient; 4294

(8) That a patient's family member who is involved in the 4295  
provision, planning, and monitoring of services to the patient may 4296  
receive medication information, a summary of the patient's 4297  
diagnosis and prognosis, and a list of the services and personnel 4298  
available to assist the patient and the patient's family, if the 4299  
patient's treating physician determines that the disclosure would 4300  
be in the best interests of the patient. No such disclosure shall 4301  
be made unless the patient is notified first and receives the 4302  
information and does not object to the disclosure. 4303

(9) That community mental health agencies may exchange 4304  
psychiatric records and certain other information with the board 4305  
of alcohol, drug addiction, and mental health services and other 4306  
agencies in order to provide services to a person involuntarily 4307  
committed to a board. Release of records under this division shall 4308  
be limited to medication history, physical health status and 4309  
history, financial status, summary of course of treatment, summary 4310  
of treatment needs, and discharge summary, if any. 4311

(10) That information may be disclosed to the executor or the 4312  
administrator of an estate of a deceased patient when the 4313  
information is necessary to administer the estate; 4314

(11) That records in the possession of the Ohio historical 4315  
society may be released to the closest living relative of a 4316  
deceased patient upon request of that relative; 4317

(12) That information may be disclosed to staff members of 4318  
the appropriate board or to staff members designated by the 4319  
director of mental health for the purpose of evaluating the 4320  
quality, effectiveness, and efficiency of services and determining 4321  
if the services meet minimum standards. Information obtained 4322  
during such evaluations shall not be retained with the name of any 4323

patient. 4324

(13) That records pertaining to the patient's diagnosis, 4325  
course of treatment, treatment needs, and prognosis shall be 4326  
disclosed and released to the appropriate prosecuting attorney if 4327  
the patient was committed pursuant to section 2945.38, 2945.39, 4328  
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 4329  
attorney designated by the board for proceedings pursuant to 4330  
involuntary commitment under this chapter. 4331

(14) That the department of mental health may exchange 4332  
psychiatric hospitalization records, other mental health treatment 4333  
records, and other pertinent information with the department of 4334  
rehabilitation and correction to ensure continuity of care for 4335  
inmates who are receiving mental health services in an institution 4336  
of the department of rehabilitation and correction. The department 4337  
shall not disclose those records unless the inmate is notified, 4338  
receives the information, and does not object to the disclosure. 4339  
The release of records under this division is limited to records 4340  
regarding an inmate's medication history, physical health status 4341  
and history, summary of course of treatment, summary of treatment 4342  
needs, and a discharge summary, if any. 4343

(15) That a community mental health agency that ceases to 4344  
operate may transfer to either a community mental health agency 4345  
that assumes its caseload or to the board of alcohol, drug 4346  
addiction, and mental health services of the service district in 4347  
which the patient resided at the time services were most recently 4348  
provided any treatment records that have not been transferred 4349  
elsewhere at the patient's request. 4350

(B) Before records are disclosed pursuant to divisions 4351  
(A)(3), (6), (7), and (9) of this section, the custodian of the 4352  
records shall attempt to obtain the patient's consent for the 4353  
disclosure. No person shall reveal the contents of a medical 4354  
record of a patient except as authorized by law. 4355

(C) The managing officer of a hospital who releases necessary 4356  
medical information under division (A)(3) of this section to allow 4357  
an insurance carrier or other third party payor to comply with 4358  
section 5121.43 of the Revised Code shall neither be subject to 4359  
criminal nor civil liability. 4360

**Section 4.** That the existing versions of sections 5122.01, 4361  
5122.27, and 5122.31 of the Revised Code that are scheduled to 4362  
take effect on October 1, 2012, are hereby repealed. 4363

**Section 5.** Sections 3 and 4 of this act take effect on 4364  
October 1, 2012. 4365