

As Passed by the Senate

**130th General Assembly
Regular Session
2013-2014**

Sub. S. B. No. 43

Senators Burke, Tavares

**Cosponsors: Senators Balderson, Kearney, Seitz, Sawyer, Coley, Bacon,
Beagle, Brown, Gardner, Hite, Jones, Lehner, Manning, Oelslager, Peterson,
Schaffer, Smith**

—

A B I L L

To amend sections 2101.16, 2151.011, 2151.23, 1
2923.125, 2923.1213, 2923.13, 2945.37, 2945.38, 2
2945.39, 2945.40, 2945.401, 2967.22, 5119.311, 3
5120.17, 5122.01, 5122.03, 5122.05, 5122.10, 4
5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5
5122.21, 5122.27, 5122.30, 5122.31, 5122.311, 6
5122.34, 5122.43, 5139.54, 5305.22, 5907.06, and 7
5907.09 and to enact section 5122.111 of the 8
Revised Code to make changes to the laws governing 9
the civil commitment of and treatment provided to 10
mentally ill persons. 11

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

Section 1. That sections 2101.16, 2151.011, 2151.23, 12
2923.125, 2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2945.40, 13
2945.401, 2967.22, 5119.311, 5120.17, 5122.01, 5122.03, 5122.05, 14
5122.10, 5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 15
5122.27, 5122.30, 5122.31, 5122.311, 5122.34, 5122.43, 5139.54, 16
5305.22, 5907.06, and 5907.09 be amended and section 5122.111 of 17
the Revised Code be enacted to read as follows: 18

Sec. 2101.16. (A) Except as provided in section 2101.164 of	19
the Revised Code, the fees enumerated in this division shall be	20
charged and collected, if possible, by the probate judge and shall	21
be in full for all services rendered in the respective	22
proceedings:	23
(1) Account, in addition to advertising charges	24
..... \$ 12.00	25
Waivers and proof of notice of hearing on account,	26
per page, minimum one dollar	
..... \$ 1.00	27
(2) Account of distribution, in addition to advertising	28
charges	
..... \$ 7.00	29
(3) Adoption of child, petition for	30
..... \$ 50.00	31
(4) Alter or cancel contract for sale or purchase of real	32
property, complaint to	
..... \$ 20.00	33
(5) Application and order not otherwise provided for in	34
this section or by rule adopted pursuant to division	
(E) of this section	
..... \$ 5.00	35
(6) Appropriation suit, per day, hearing in	36
..... \$ 20.00	37
(7) Birth, application for registration of	38
..... \$ 7.00	39
(8) Birth record, application to correct	40
..... \$ 5.00	41
(9) Bond, application for new or additional	42
..... \$ 5.00	43
(10) Bond, application for release of surety or reduction	44
of	

.....	\$ 5.00	45
(11) Bond, receipt for securities deposited in lieu of		46
.....	\$ 5.00	47
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar		48
.....	\$ 1.00	49
(13) Citation and issuing citation, application for		50
.....	\$ 5.00	51
(14) Change of name, petition for		52
.....	\$ 20.00	53
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own		54
.....	\$ 10.00	55
(16) Claim, application to compromise or settle		56
.....	\$ 10.00	57
(17) Claim, authority to present		58
.....	\$ 10.00	59
(18) Commissioner, appointment of		60
.....	\$ 5.00	61
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for		62
.....	\$ 5.00	63
(20) Competency, application to procure adjudication of		64
.....	\$ 20.00	65
(21) Complete contract, application to		66
.....	\$ 10.00	67
(22) Concealment of assets, citation for		68
.....	\$ 10.00	69
(23) Construction of will, complaint for		70
.....	\$ 20.00	71
(24) Continue decedent's business, application to		72
.....	\$ 10.00	73
Monthly reports of operation		74

.....	\$ 5.00	75
(25) Declaratory judgment, complaint for		76
.....	\$ 20.00	77
(26) Deposit of will		78
.....	\$ 5.00	79
(27) Designation of heir		80
.....	\$ 20.00	81
(28) Distribution in kind, application, assent, and order for		82
.....	\$ 5.00	83
(29) Distribution under section 2109.36 of the Revised Code, application for an order of		84
.....	\$ 7.00	85
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars		86
.....	\$ 15.00	87
(31) Exceptions to any proceeding named in this section, contest of appointment or		88
.....	\$ 10.00	89
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to		90
.....	\$ 10.00	91
(33) Election of surviving spouse under will		92
.....	\$ 5.00	93
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of		94
.....	\$ 35.00	95
(35) Foreign will, application to record		96
.....	\$ 10.00	97
Record of foreign will, additional, per page		98
.....	\$ 1.00	99

(36) Forms when supplied by the probate court, not to exceed	100
..... \$ 10.00	101
(37) Heirship, complaint to determine	102
..... \$ 20.00	103
(38) Injunction proceedings	104
..... \$ 20.00	105
(39) Improve real property, petition to	106
..... \$ 20.00	107
(40) Inventory with appraisement	108
..... \$ 10.00	109
(41) Inventory without appraisement	110
..... \$ 7.00	111
(42) Investment or expenditure of funds, application for	112
..... \$ 10.00	113
(43) Invest in real property, application to	114
..... \$ 10.00	115
(44) Lease for oil, gas, coal, or other mineral, petition to	116
..... \$ 20.00	117
(45) Lease or lease and improve real property, petition to	118
..... \$ 20.00	119
(46) Marriage license	120
..... \$ 10.00	121
Certified abstract of each marriage	122
..... \$ 2.00	123
(47) Minor or incompetent person, etc., disposal of estate under twenty-five thousand dollars of	124
..... \$ 10.00	125
(48) Mortgage or mortgage and repair or improve real property, complaint to	126
..... \$ 20.00	127
(49) Newly discovered assets, report of	128

.....	\$ 7.00	129
(50) Nonresident executor or administrator to bar creditors' claims, proceedings by		130
.....	\$ 20.00	131
(51) Power of attorney or revocation of power, bonding company		132
.....	\$ 10.00	133
(52) Presumption of death, petition to establish		134
.....	\$ 20.00	135
(53) Probating will		136
.....	\$ 15.00	137
Proof of notice to beneficiaries		138
.....	\$ 5.00	139
(54) Purchase personal property, application of surviving spouse to		140
.....	\$ 10.00	141
(55) Purchase real property at appraised value, petition of surviving spouse to		142
.....	\$ 20.00	143
(56) Receipts in addition to advertising charges, application and order to record		144
.....	\$ 5.00	145
Record of those receipts, additional, per page		146
.....	\$ 1.00	147
(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page		148
.....	\$ 1.00	149
(58) Release of estate by mortgagee or other lienholder		150
.....	\$ 5.00	151
(59) Relieving an estate from administration under section 2113.03 of the Revised Code or granting an order for a summary release from administration under section 2113.031 of the Revised Code		152

.....	\$ 60.00	153
(60) Removal of fiduciary, application for		154
.....	\$ 10.00	155
(61) Requalification of executor or administrator		156
.....	\$ 10.00	157
(62) Resignation of fiduciary		158
.....	\$ 5.00	159
(63) Sale bill, public sale of personal property		160
.....	\$ 10.00	161
(64) Sale of personal property and report, application for		162
.....	\$ 10.00	163
(65) Sale of real property, petition for		164
.....	\$ 25.00	165
(66) Terminate guardianship, petition to		166
.....	\$ 10.00	167
(67) Transfer of real property, application, entry, and certificate for		168
.....	\$ 7.00	169
(68) Unclaimed money, application to invest		170
.....	\$ 7.00	171
(69) Vacate approval of account or order of distribution, motion to		172
.....	\$ 10.00	173
(70) Writ of execution		174
.....	\$ 5.00	175
(71) Writ of possession		176
.....	\$ 5.00	177
(72) Wrongful death, application and settlement of claim for		178
.....	\$ 20.00	179
(73) Year's allowance, petition to review		180
.....	\$ 7.00	181
(74) Guardian's report, filing and review of		182

.....	\$ 5.00	183
<u>(75) Mentally ill person subject to court order, filing of affidavit and proceedings for</u>		184
.....	\$ 25.00	185
(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.		186 187 188 189 190 191 192 193 194 195 196 197
(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.		198 199 200 201 202 203 204 205 206
<u>(3) In relation to the filing of an affidavit of mental illness for a mentally ill person subject to court order, the court may waive the fee under division (A)(75) of this section if the court finds that the affiant is indigent or for good cause shown.</u>		207 208 209 210 211
(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of		212 213

the sixty-dollar fee collected pursuant to division (A)(59) of 214
this section shall be deposited by the county treasurer in the 215
indigent guardianship fund created pursuant to section 2111.51 of 216
the Revised Code. 217

(D) The fees of witnesses, jurors, sheriffs, coroners, and 218
constables for services rendered in the probate court or by order 219
of the probate judge shall be the same as provided for similar 220
services in the court of common pleas. 221

(E) The probate court, by rule, may require an advance 222
deposit for costs, not to exceed one hundred twenty-five dollars, 223
at the time application is made for an appointment as executor or 224
administrator or at the time a will is presented for probate. 225

(F) The probate court, by rule, shall establish a reasonable 226
fee, not to exceed fifty dollars, for the filing of a petition for 227
the release of information regarding an adopted person's name by 228
birth and the identity of the adopted person's biological parents 229
and biological siblings pursuant to section 3107.41 of the Revised 230
Code, all proceedings relative to the petition, the entry of an 231
order relative to the petition, and all services required to be 232
performed in connection with the petition. The probate court may 233
use a reasonable portion of a fee charged under authority of this 234
division to reimburse any agency, as defined in section 3107.39 of 235
the Revised Code, for any services it renders in performing a task 236
described in section 3107.41 of the Revised Code relative to or in 237
connection with the petition for which the fee was charged. 238

(G)(1) Thirty dollars of the fifty-dollar fee collected 239
pursuant to division (A)(3) of this section shall be deposited 240
into the "putative father registry fund," which is hereby created 241
in the state treasury. The department of job and family services 242
shall use the money in the fund to fund the department's costs of 243
performing its duties related to the putative father registry 244
established under section 3107.062 of the Revised Code. 245

(2) If the department determines that money in the putative father registry fund is more than is needed for its duties related to the putative father registry, the department may use the surplus moneys in the fund as permitted in division (C) of section 2151.3529, division (B) of section 2151.3530, or section 5103.155 of the Revised Code.

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(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;

(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;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(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.

(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	276
permanent legal custody of children, that is privately operated in	277
this state, and that does one or more of the following:	278
(a) Receives and cares for children for two or more	279
consecutive weeks;	280
(b) Participates in the placement of children in certified	281
foster homes;	282
(c) Provides adoption services in conjunction with a public	283
children services agency or private child placing agency.	284
(B) As used in this chapter:	285
(1) "Adequate parental care" means the provision by a child's	286
parent or parents, guardian, or custodian of adequate food,	287
clothing, and shelter to ensure the child's health and physical	288
safety and the provision by a child's parent or parents of	289
specialized services warranted by the child's physical or mental	290
needs.	291
(2) "Adult" means an individual who is eighteen years of age	292
or older.	293
(3) "Agreement for temporary custody" means a voluntary	294
agreement authorized by section 5103.15 of the Revised Code that	295
transfers the temporary custody of a child to a public children	296
services agency or a private child placing agency.	297
(4) "Alternative response" means the public children services	298
agency's response to a report of child abuse or neglect that	299
engages the family in a comprehensive evaluation of child safety,	300
risk of subsequent harm, and family strengths and needs and that	301
does not include a determination as to whether child abuse or	302
neglect occurred.	303
(5) "Certified foster home" means a foster home, as defined	304
in section 5103.02 of the Revised Code, certified under section	305

5103.03 of the Revised Code. 306

(6) "Child" means a person who is under eighteen years of 307
age, except that the juvenile court has jurisdiction over any 308
person who is adjudicated an unruly child prior to attaining 309
eighteen years of age until the person attains twenty-one years of 310
age, and, for purposes of that jurisdiction related to that 311
adjudication, a person who is so adjudicated an unruly child shall 312
be deemed a "child" until the person attains twenty-one years of 313
age. 314

(7) "Child day camp," "child care," "child day-care center," 315
"part-time child day-care center," "type A family day-care home," 316
"licensed type B family day-care home," "type B family day-care 317
home," "administrator of a child day-care center," "administrator 318
of a type A family day-care home," and "in-home aide" have the 319
same meanings as in section 5104.01 of the Revised Code. 320

(8) "Child care provider" means an individual who is a 321
child-care staff member or administrator of a child day-care 322
center, a type A family day-care home, or a type B family day-care 323
home, or an in-home aide or an individual who is licensed, is 324
regulated, is approved, operates under the direction of, or 325
otherwise is certified by the department of job and family 326
services, department of developmental disabilities, or the early 327
childhood programs of the department of education. 328

(9) "Chronic truant" has the same meaning as in section 329
2152.02 of the Revised Code. 330

(10) "Commit" means to vest custody as ordered by the court. 331

(11) "Counseling" includes both of the following: 332

(a) General counseling services performed by a public 333
children services agency or shelter for victims of domestic 334
violence to assist a child, a child's parents, and a child's 335
siblings in alleviating identified problems that may cause or have 336

caused the child to be an abused, neglected, or dependent child.	337
(b) Psychiatric or psychological therapeutic counseling	338
services provided to correct or alleviate any mental or emotional	339
illness or disorder and performed by a licensed psychiatrist,	340
licensed psychologist, or a person licensed under Chapter 4757. of	341
the Revised Code to engage in social work or professional	342
counseling.	343
(12) "Custodian" means a person who has legal custody of a	344
child or a public children services agency or private child	345
placing agency that has permanent, temporary, or legal custody of	346
a child.	347
(13) "Delinquent child" has the same meaning as in section	348
2152.02 of the Revised Code.	349
(14) "Detention" means the temporary care of children pending	350
court adjudication or disposition, or execution of a court order,	351
in a public or private facility designed to physically restrict	352
the movement and activities of children.	353
(15) "Developmental disability" has the same meaning as in	354
section 5123.01 of the Revised Code.	355
(16) "Differential response approach" means an approach that	356
a public children services agency may use to respond to accepted	357
reports of child abuse or neglect with either an alternative	358
response or a traditional response.	359
(17) "Foster caregiver" has the same meaning as in section	360
5103.02 of the Revised Code.	361
(18) "Guardian" means a person, association, or corporation	362
that is granted authority by a probate court pursuant to Chapter	363
2111. of the Revised Code to exercise parental rights over a child	364
to the extent provided in the court's order and subject to the	365
residual parental rights of the child's parents.	366

(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

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

(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.

(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:

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

(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;

(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.

(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.	398
(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 child's care.	399 400 401 402 403
(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.	404 405
(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.	406 407 408 409
(27) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.	410 411
(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.	412 413 414 415 416 417
(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, type B family day-care homes, child care provided 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,	418 419 420 421 422 423 424 425 426 427 428

physical custody, or control of children. 429

(30) "Out-of-home care child abuse" means any of the 430
following when committed by a person responsible for the care of a 431
child in out-of-home care: 432

(a) Engaging in sexual activity with a child in the person's 433
care; 434

(b) Denial to a child, as a means of punishment, of proper or 435
necessary subsistence, education, medical care, or other care 436
necessary for a child's health; 437

(c) Use of restraint procedures on a child that cause injury 438
or pain; 439

(d) Administration of prescription drugs or psychotropic 440
medication to the child without the written approval and ongoing 441
supervision of a licensed physician; 442

(e) Commission of any act, other than by accidental means, 443
that results in any injury to or death of the child in out-of-home 444
care or commission of any act by accidental means that results in 445
an injury to or death of a child in out-of-home care and that is 446
at variance with the history given of the injury or death. 447

(31) "Out-of-home care child neglect" means any of the 448
following when committed by a person responsible for the care of a 449
child in out-of-home care: 450

(a) Failure to provide reasonable supervision according to 451
the standards of care appropriate to the age, mental and physical 452
condition, or other special needs of the child; 453

(b) Failure to provide reasonable supervision according to 454
the standards of care appropriate to the age, mental and physical 455
condition, or other special needs of the child, that results in 456
sexual or physical abuse of the child by any person; 457

(c) Failure to develop a process for all of the following: 458

(i) Administration of prescription drugs or psychotropic drugs for the child;	459 460
(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;	461 462
(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.	463 464 465
(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;	466 467 468
(e) Confinement of the child to a locked room without monitoring by staff;	469 470
(f) Failure to provide ongoing security for all prescription and nonprescription medication;	471 472
(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.	473 474 475
(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.	476 477 478 479 480 481
(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.	482 483 484 485 486
(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions,	487 488

departments, or agencies.	489
(35) "Person responsible for a child's care in out-of-home care" means any of the following:	490
(a) Any foster caregiver, in-home aide, or provider;	491
(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; licensed type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;	492
(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;	493
(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.	494
(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:	495
(a) A substantial impairment of vision, speech, or hearing;	496
(b) A congenital orthopedic impairment;	497
(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.	498
(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child	499
	500
	501
	502
	503
	504
	505
	506
	507
	508
	509
	510
	511
	512
	513
	514
	515
	516
	517
	518

of whom the agency has permanent custody. 519

(38) "Placement in foster care" means the arrangement by a 520
public children services agency or a private child placing agency 521
for the out-of-home care of a child of whom the agency has 522
temporary custody or permanent custody. 523

(39) "Planned permanent living arrangement" means an order of 524
a juvenile court pursuant to which both of the following apply: 525

(a) The court gives legal custody of a child to a public 526
children services agency or a private child placing agency without 527
the termination of parental rights. 528

(b) The order permits the agency to make an appropriate 529
placement of the child and to enter into a written agreement with 530
a foster care provider or with another person or agency with whom 531
the child is placed. 532

(40) "Practice of social work" and "practice of professional 533
counseling" have the same meanings as in section 4757.01 of the 534
Revised Code. 535

(41) "Sanction, service, or condition" means a sanction, 536
service, or condition created by court order following an 537
adjudication that a child is an unruly child that is described in 538
division (A)(4) of section 2152.19 of the Revised Code. 539

(42) "Protective supervision" means an order of disposition 540
pursuant to which the court permits an abused, neglected, 541
dependent, or unruly child to remain in the custody of the child's 542
parents, guardian, or custodian and stay in the child's home, 543
subject to any conditions and limitations upon the child, the 544
child's parents, guardian, or custodian, or any other person that 545
the court prescribes, including supervision as directed by the 546
court for the protection of the child. 547

(43) "Psychiatrist" has the same meaning as in section 548

5122.01 of the Revised Code.	549
(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.	550 551
(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.	552 553 554
(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code and that provides care for a child.	555 556 557 558
(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.	559 560 561 562
(48) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.	563 564 565 566 567 568 569
(49) "School day" means the school day established by the board of education of the applicable school district pursuant to section 3313.481 of the Revised Code.	570 571 572
(50) "School year" has the same meaning as in section 3313.62 of the Revised Code.	573 574
(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and	575 576 577 578

disposition.	579
(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.	580 581
(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.	582 583 584
(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.	585 586
(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.	587 588 589 590 591
(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.	592 593 594 595 596 597
(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.	598 599 600 601 602
Sec. 2151.23. (A) The juvenile court has exclusive original jurisdiction under the Revised Code as follows:	603 604
(1) Concerning any child who on or about the date specified in the complaint, indictment, or information is alleged to have violated section 2151.87 of the Revised Code or an order issued under that section or to be a juvenile traffic offender or a	605 606 607 608

delinquent, unruly, abused, neglected, or dependent child and, 609
based on and in relation to the allegation pertaining to the 610
child, concerning the parent, guardian, or other person having 611
care of a child who is alleged to be an unruly or delinquent child 612
for being an habitual or chronic truant; 613

(2) Subject to divisions (G), (K), and (V) of section 2301.03 614
of the Revised Code, to determine the custody of any child not a 615
ward of another court of this state; 616

(3) To hear and determine any application for a writ of 617
habeas corpus involving the custody of a child; 618

(4) To exercise the powers and jurisdiction given the probate 619
division of the court of common pleas in Chapter 5122. of the 620
Revised Code, if the court has probable cause to believe that a 621
child otherwise within the jurisdiction of the court is a mentally 622
ill person subject to ~~hospitalization by~~ court order, as defined 623
in section 5122.01 of the Revised Code; 624

(5) To hear and determine all criminal cases charging adults 625
with the violation of any section of this chapter; 626

(6) To hear and determine all criminal cases in which an 627
adult is charged with a violation of division (C) of section 628
2919.21, division (B)(1) of section 2919.22, section 2919.222, 629
division (B) of section 2919.23, or section 2919.24 of the Revised 630
Code, provided the charge is not included in an indictment that 631
also charges the alleged adult offender with the commission of a 632
felony arising out of the same actions that are the basis of the 633
alleged violation of division (C) of section 2919.21, division 634
(B)(1) of section 2919.22, section 2919.222, division (B) of 635
section 2919.23, or section 2919.24 of the Revised Code; 636

(7) Under the interstate compact on juveniles in section 637
2151.56 of the Revised Code; 638

(8) Concerning any child who is to be taken into custody 639

pursuant to section 2151.31 of the Revised Code, upon being 640
notified of the intent to take the child into custody and the 641
reasons for taking the child into custody; 642

(9) To hear and determine requests for the extension of 643
temporary custody agreements, and requests for court approval of 644
permanent custody agreements, that are filed pursuant to section 645
5103.15 of the Revised Code; 646

(10) To hear and determine applications for consent to marry 647
pursuant to section 3101.04 of the Revised Code; 648

(11) Subject to divisions (G), (K), and (V) of section 649
2301.03 of the Revised Code, to hear and determine a request for 650
an order for the support of any child if the request is not 651
ancillary to an action for divorce, dissolution of marriage, 652
annulment, or legal separation, a criminal or civil action 653
involving an allegation of domestic violence, or an action for 654
support brought under Chapter 3115. of the Revised Code; 655

(12) Concerning an action commenced under section 121.38 of 656
the Revised Code; 657

(13) To hear and determine violations of section 3321.38 of 658
the Revised Code; 659

(14) To exercise jurisdiction and authority over the parent, 660
guardian, or other person having care of a child alleged to be a 661
delinquent child, unruly child, or juvenile traffic offender, 662
based on and in relation to the allegation pertaining to the 663
child; 664

(15) To conduct the hearings, and to make the determinations, 665
adjudications, and orders authorized or required under sections 666
2152.82 to 2152.86 and Chapter 2950. of the Revised Code regarding 667
a child who has been adjudicated a delinquent child and to refer 668
the duties conferred upon the juvenile court judge under sections 669
2152.82 to 2152.86 and Chapter 2950. of the Revised Code to 670

magistrates appointed by the juvenile court judge in accordance 671
with Juvenile Rule 40; 672

(16) To hear and determine a petition for a protection order 673
against a child under section 2151.34 or 3113.31 of the Revised 674
Code and to enforce a protection order issued or a consent 675
agreement approved under either section against a child until a 676
date certain but not later than the date the child attains 677
nineteen years of age. 678

(B) Except as provided in divisions (G) and (I) of section 679
2301.03 of the Revised Code, the juvenile court has original 680
jurisdiction under the Revised Code: 681

(1) To hear and determine all cases of misdemeanors charging 682
adults with any act or omission with respect to any child, which 683
act or omission is a violation of any state law or any municipal 684
ordinance; 685

(2) To determine the paternity of any child alleged to have 686
been born out of wedlock pursuant to sections 3111.01 to 3111.18 687
of the Revised Code; 688

(3) Under the uniform interstate family support act in 689
Chapter 3115. of the Revised Code; 690

(4) To hear and determine an application for an order for the 691
support of any child, if the child is not a ward of another court 692
of this state; 693

(5) To hear and determine an action commenced under section 694
3111.28 of the Revised Code; 695

(6) To hear and determine a motion filed under section 696
3119.961 of the Revised Code; 697

(7) To receive filings under section 3109.74 of the Revised 698
Code, and to hear and determine actions arising under sections 699
3109.51 to 3109.80 of the Revised Code. 700

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

(9) To grant any relief normally available under the laws of this state to enforce a child custody determination made by a court of another state and registered in accordance with section 3127.35 of the Revised Code.

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

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

(E) The juvenile court, except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, has jurisdiction

to hear and determine the case of any child certified to the court 733
by any court of competent jurisdiction if the child comes within 734
the jurisdiction of the juvenile court as defined by this section. 735

(F)(1) The juvenile court shall exercise its jurisdiction in 736
child custody matters in accordance with sections 3109.04 and 737
3127.01 to 3127.53 of the Revised Code and, as applicable, 738
sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised 739
Code. 740

(2) The juvenile court shall exercise its jurisdiction in 741
child support matters in accordance with section 3109.05 of the 742
Revised Code. 743

(G) Any juvenile court that makes or modifies an order for 744
child support shall comply with Chapters 3119., 3121., 3123., and 745
3125. of the Revised Code. If any person required to pay child 746
support under an order made by a juvenile court on or after April 747
15, 1985, or modified on or after December 1, 1986, is found in 748
contempt of court for failure to make support payments under the 749
order, the court that makes the finding, in addition to any other 750
penalty or remedy imposed, shall assess all court costs arising 751
out of the contempt proceeding against the person and require the 752
person to pay any reasonable attorney's fees of any adverse party, 753
as determined by the court, that arose in relation to the act of 754
contempt. 755

(H) If a child who is charged with an act that would be an 756
offense if committed by an adult was fourteen years of age or 757
older and under eighteen years of age at the time of the alleged 758
act and if the case is transferred for criminal prosecution 759
pursuant to section 2152.12 of the Revised Code, except as 760
provided in section 2152.121 of the Revised Code, the juvenile 761
court does not have jurisdiction to hear or determine the case 762
subsequent to the transfer. The court to which the case is 763
transferred for criminal prosecution pursuant to that section has 764

jurisdiction subsequent to the transfer to hear and determine the 765
case in the same manner as if the case originally had been 766
commenced in that court, subject to section 2152.121 of the 767
Revised Code, including, but not limited to, jurisdiction to 768
accept a plea of guilty or another plea authorized by Criminal 769
Rule 11 or another section of the Revised Code and jurisdiction to 770
accept a verdict and to enter a judgment of conviction pursuant to 771
the Rules of Criminal Procedure against the child for the 772
commission of the offense that was the basis of the transfer of 773
the case for criminal prosecution, whether the conviction is for 774
the same degree or a lesser degree of the offense charged, for the 775
commission of a lesser-included offense, or for the commission of 776
another offense that is different from the offense charged. 777

(I) If a person under eighteen years of age allegedly commits 778
an act that would be a felony if committed by an adult and if the 779
person is not taken into custody or apprehended for that act until 780
after the person attains twenty-one years of age, the juvenile 781
court does not have jurisdiction to hear or determine any portion 782
of the case charging the person with committing that act. In those 783
circumstances, divisions (A) and (B) of section 2152.12 of the 784
Revised Code do not apply regarding the act, and the case charging 785
the person with committing the act shall be a criminal prosecution 786
commenced and heard in the appropriate court having jurisdiction 787
of the offense as if the person had been eighteen years of age or 788
older when the person committed the act. All proceedings 789
pertaining to the act shall be within the jurisdiction of the 790
court having jurisdiction of the offense, and that court has all 791
the authority and duties in the case that it has in other criminal 792
cases in that court. 793

(J) In exercising its exclusive original jurisdiction under 794
division (A)(16) of this section with respect to any proceedings 795
brought under section 2151.34 or 3113.31 of the Revised Code in 796

which the respondent is a child, the juvenile court retains all 797
dispositionary powers consistent with existing rules of juvenile 798
procedure and may also exercise its discretion to adjudicate 799
proceedings as provided in sections 2151.34 and 3113.31 of the 800
Revised Code, including the issuance of protection orders or the 801
approval of consent agreements under those sections. 802

Sec. 2923.125. (A) This section applies with respect to the 803
application for and issuance by this state of concealed handgun 804
licenses other than concealed handgun licenses on a temporary 805
emergency basis that are issued under section 2923.1213 of the 806
Revised Code. Upon the request of a person who wishes to obtain a 807
concealed handgun license with respect to which this section 808
applies or to renew a concealed handgun license with respect to 809
which this section applies, a sheriff, as provided in division (I) 810
of this section, shall provide to the person free of charge an 811
application form and the web site address at which the pamphlet 812
described in division (B) of section 109.731 of the Revised Code 813
may be found. A sheriff shall accept a completed application form 814
and the fee, items, materials, and information specified in 815
divisions (B)(1) to (5) of this section at the times and in the 816
manners described in division (I) of this section. 817

(B) An applicant for a concealed handgun license with respect 818
to which this section applies shall submit a completed application 819
form and all of the following to the sheriff of the county in 820
which the applicant resides or to the sheriff of any county 821
adjacent to the county in which the applicant resides: 822

(1)(a) A nonrefundable license fee as described in either of 823
the following: 824

(i) For an applicant who has been a resident of this state 825
for five or more years, a fee of sixty-seven dollars; 826

(ii) For an applicant who has been a resident of this state 827

for less than five years, a fee of sixty-seven dollars plus the 828
actual cost of having a background check performed by the federal 829
bureau of investigation. 830

(b) No sheriff shall require an applicant to pay for the cost 831
of a background check performed by the bureau of criminal 832
identification and investigation. 833

(c) A sheriff shall waive the payment of the license fee 834
described in division (B)(1)(a) of this section in connection with 835
an initial or renewal application for a license that is submitted 836
by an applicant who is a retired peace officer, a retired person 837
described in division (B)(1)(b) of section 109.77 of the Revised 838
Code, or a retired federal law enforcement officer who, prior to 839
retirement, was authorized under federal law to carry a firearm in 840
the course of duty, unless the retired peace officer, person, or 841
federal law enforcement officer retired as the result of a mental 842
disability. 843

(d) The sheriff shall deposit all fees paid by an applicant 844
under division (B)(1)(a) of this section into the sheriff's 845
concealed handgun license issuance fund established pursuant to 846
section 311.42 of the Revised Code. The county shall distribute 847
the fees in accordance with section 311.42 of the Revised Code. 848

(2) A color photograph of the applicant that was taken within 849
thirty days prior to the date of the application; 850

(3) One or more of the following competency certifications, 851
each of which shall reflect that, regarding a certification 852
described in division (B)(3)(a), (b), (c), (e), or (f) of this 853
section, within the three years immediately preceding the 854
application the applicant has performed that to which the 855
competency certification relates and that, regarding a 856
certification described in division (B)(3)(d) of this section, the 857
applicant currently is an active or reserve member of the armed 858

forces of the United States or within the six years immediately 859
preceding the application the honorable discharge or retirement to 860
which the competency certification relates occurred: 861

(a) An original or photocopy of a certificate of completion 862
of a firearms safety, training, or requalification or firearms 863
safety instructor course, class, or program that was offered by or 864
under the auspices of the national rifle association and that 865
complies with the requirements set forth in division (G) of this 866
section; 867

(b) An original or photocopy of a certificate of completion 868
of a firearms safety, training, or requalification or firearms 869
safety instructor course, class, or program that satisfies all of 870
the following criteria: 871

(i) It was open to members of the general public. 872

(ii) It utilized qualified instructors who were certified by 873
the national rifle association, the executive director of the Ohio 874
peace officer training commission pursuant to section 109.75 or 875
109.78 of the Revised Code, or a governmental official or entity 876
of another state. 877

(iii) It was offered by or under the auspices of a law 878
enforcement agency of this or another state or the United States, 879
a public or private college, university, or other similar 880
postsecondary educational institution located in this or another 881
state, a firearms training school located in this or another 882
state, or another type of public or private entity or organization 883
located in this or another state. 884

(iv) It complies with the requirements set forth in division 885
(G) of this section. 886

(c) An original or photocopy of a certificate of completion 887
of a state, county, municipal, or department of natural resources 888
peace officer training school that is approved by the executive 889

director of the Ohio peace officer training commission pursuant to 890
section 109.75 of the Revised Code and that complies with the 891
requirements set forth in division (G) of this section, or the 892
applicant has satisfactorily completed and been issued a 893
certificate of completion of a basic firearms training program, a 894
firearms requalification training program, or another basic 895
training program described in section 109.78 or 109.801 of the 896
Revised Code that complies with the requirements set forth in 897
division (G) of this section; 898

(d) A document that evidences both of the following: 899

(i) That the applicant is an active or reserve member of the 900
armed forces of the United States, was honorably discharged from 901
military service in the active or reserve armed forces of the 902
United States, is a retired trooper of the state highway patrol, 903
or is a retired peace officer or federal law enforcement officer 904
described in division (B)(1) of this section or a retired person 905
described in division (B)(1)(b) of section 109.77 of the Revised 906
Code and division (B)(1) of this section; 907

(ii) That, through participation in the military service or 908
through the former employment described in division (B)(3)(d)(i) 909
of this section, the applicant acquired experience with handling 910
handguns or other firearms, and the experience so acquired was 911
equivalent to training that the applicant could have acquired in a 912
course, class, or program described in division (B)(3)(a), (b), or 913
(c) of this section. 914

(e) A certificate or another similar document that evidences 915
satisfactory completion of a firearms training, safety, or 916
requalification or firearms safety instructor course, class, or 917
program that is not otherwise described in division (B)(3)(a), 918
(b), (c), or (d) of this section, that was conducted by an 919
instructor who was certified by an official or entity of the 920
government of this or another state or the United States or by the 921

national rifle association, and that complies with the 922
requirements set forth in division (G) of this section; 923

(f) An affidavit that attests to the applicant's satisfactory 924
completion of a course, class, or program described in division 925
(B)(3)(a), (b), (c), or (e) of this section and that is subscribed 926
by the applicant's instructor or an authorized representative of 927
the entity that offered the course, class, or program or under 928
whose auspices the course, class, or program was offered. 929

(4) A certification by the applicant that the applicant has 930
read the pamphlet prepared by the Ohio peace officer training 931
commission pursuant to section 109.731 of the Revised Code that 932
reviews firearms, dispute resolution, and use of deadly force 933
matters. 934

(5) A set of fingerprints of the applicant provided as 935
described in section 311.41 of the Revised Code through use of an 936
electronic fingerprint reading device or, if the sheriff to whom 937
the application is submitted does not possess and does not have 938
ready access to the use of such a reading device, on a standard 939
impression sheet prescribed pursuant to division (C)(2) of section 940
109.572 of the Revised Code. 941

(C) Upon receipt of the completed application form, 942
supporting documentation, and, if not waived, license fee of an 943
applicant under this section, a sheriff, in the manner specified 944
in section 311.41 of the Revised Code, shall conduct or cause to 945
be conducted the criminal records check and the incompetency 946
records check described in section 311.41 of the Revised Code. 947

(D)(1) Except as provided in division (D)(3) or (4) of this 948
section, within forty-five days after a sheriff's receipt of an 949
applicant's completed application form for a concealed handgun 950
license under this section, the supporting documentation, and, if 951
not waived, the license fee, the sheriff shall make available 952

through the law enforcement automated data system in accordance 953
with division (H) of this section the information described in 954
that division and, upon making the information available through 955
the system, shall issue to the applicant a concealed handgun 956
license that shall expire as described in division (D)(2)(a) of 957
this section if all of the following apply: 958

(a) The applicant is legally living in the United States, has 959
been a resident of this state for at least forty-five days, and 960
has been a resident of the county in which the person seeks the 961
license or a county adjacent to the county in which the person 962
seeks the license for at least thirty days. For purposes of 963
division (D)(1)(a) of this section: 964

(i) If a person is absent from the United States, from this 965
state, or from a particular county in this state in compliance 966
with military or naval orders as an active or reserve member of 967
the armed forces of the United States and if prior to leaving this 968
state in compliance with those orders the person was legally 969
living in the United States and was a resident of this state, the 970
person, solely by reason of that absence, shall not be considered 971
to have lost the person's status as living in the United States or 972
the person's residence in this state or in the county in which the 973
person was a resident prior to leaving this state in compliance 974
with those orders, without regard to whether or not the person 975
intends to return to this state or to that county, shall not be 976
considered to have acquired a residence in any other state, and 977
shall not be considered to have become a resident of any other 978
state. 979

(ii) If a person is present in this state in compliance with 980
military or naval orders as an active or reserve member of the 981
armed forces of the United States for at least forty-five days, 982
the person shall be considered to have been a resident of this 983
state for that period of at least forty-five days, and, if a 984

person is present in a county of this state in compliance with 985
military or naval orders as an active or reserve member of the 986
armed forces of the United States for at least thirty days, the 987
person shall be considered to have been a resident of that county 988
for that period of at least thirty days. 989

(b) The applicant is at least twenty-one years of age. 990

(c) The applicant is not a fugitive from justice. 991

(d) The applicant is not under indictment for or otherwise 992
charged with a felony; an offense under Chapter 2925., 3719., or 993
4729. of the Revised Code that involves the illegal possession, 994
use, sale, administration, or distribution of or trafficking in a 995
drug of abuse; a misdemeanor offense of violence; or a violation 996
of section 2903.14 or 2923.1211 of the Revised Code. 997

(e) Except as otherwise provided in division (D)(5) of this 998
section, the applicant has not been convicted of or pleaded guilty 999
to a felony or an offense under Chapter 2925., 3719., or 4729. of 1000
the Revised Code that involves the illegal possession, use, sale, 1001
administration, or distribution of or trafficking in a drug of 1002
abuse; has not been adjudicated a delinquent child for committing 1003
an act that if committed by an adult would be a felony or would be 1004
an offense under Chapter 2925., 3719., or 4729. of the Revised 1005
Code that involves the illegal possession, use, sale, 1006
administration, or distribution of or trafficking in a drug of 1007
abuse; and has not been convicted of, pleaded guilty to, or 1008
adjudicated a delinquent child for committing a violation of 1009
section 2903.13 of the Revised Code when the victim of the 1010
violation is a peace officer, regardless of whether the applicant 1011
was sentenced under division (C)(4) of that section. 1012

(f) Except as otherwise provided in division (D)(5) of this 1013
section, the applicant, within three years of the date of the 1014
application, has not been convicted of or pleaded guilty to a 1015

misdemeanor offense of violence other than a misdemeanor violation 1016
of section 2921.33 of the Revised Code or a violation of section 1017
2903.13 of the Revised Code when the victim of the violation is a 1018
peace officer, or a misdemeanor violation of section 2923.1211 of 1019
the Revised Code; and has not been adjudicated a delinquent child 1020
for committing an act that if committed by an adult would be a 1021
misdemeanor offense of violence other than a misdemeanor violation 1022
of section 2921.33 of the Revised Code or a violation of section 1023
2903.13 of the Revised Code when the victim of the violation is a 1024
peace officer or for committing an act that if committed by an 1025
adult would be a misdemeanor violation of section 2923.1211 of the 1026
Revised Code. 1027

(g) Except as otherwise provided in division (D)(1)(e) of 1028
this section, the applicant, within five years of the date of the 1029
application, has not been convicted of, pleaded guilty to, or 1030
adjudicated a delinquent child for committing two or more 1031
violations of section 2903.13 or 2903.14 of the Revised Code. 1032

(h) Except as otherwise provided in division (D)(5) of this 1033
section, the applicant, within ten years of the date of the 1034
application, has not been convicted of, pleaded guilty to, or 1035
adjudicated a delinquent child for committing a violation of 1036
section 2921.33 of the Revised Code. 1037

(i) The applicant has not been adjudicated as a mental 1038
defective, has not been committed to any mental institution, is 1039
not under adjudication of mental incompetence, has not been found 1040
by a court to be a mentally ill person subject to ~~hospitalization~~ 1041
~~by~~ court order, and is not an involuntary patient other than one 1042
who is a patient only for purposes of observation. As used in this 1043
division, "mentally ill person subject to ~~hospitalization~~ by court 1044
order" and "patient" have the same meanings as in section 5122.01 1045
of the Revised Code. 1046

(j) The applicant is not currently subject to a civil 1047

protection order, a temporary protection order, or a protection order issued by a court of another state. 1048
1049

(k) The applicant certifies that the applicant desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity. 1050
1051
1052
1053

(l) The applicant submits a competency certification of the type described in division (B)(3) of this section and submits a certification of the type described in division (B)(4) of this section regarding the applicant's reading of the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code. 1054
1055
1056
1057
1058
1059

(m) The applicant currently is not subject to a suspension imposed under division (A)(2) of section 2923.128 of the Revised Code of a concealed handgun license that previously was issued to the applicant under this section or section 2923.1213 of the Revised Code. 1060
1061
1062
1063
1064

(2)(a) A concealed handgun license that a sheriff issues under division (D)(1) of this section shall expire five years after the date of issuance. 1065
1066
1067

If a sheriff issues a license under this section, the sheriff shall place on the license a unique combination of letters and numbers identifying the license in accordance with the procedure prescribed by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code. 1068
1069
1070
1071
1072

(b) If a sheriff denies an application under this section because the applicant does not satisfy the criteria described in division (D)(1) of this section, the sheriff shall specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial pursuant to section 119.12 of the Revised Code in the county served by the sheriff who denied the 1073
1074
1075
1076
1077
1078

application. If the denial was as a result of the criminal records 1079
check conducted pursuant to section 311.41 of the Revised Code and 1080
if, pursuant to section 2923.127 of the Revised Code, the 1081
applicant challenges the criminal records check results using the 1082
appropriate challenge and review procedure specified in that 1083
section, the time for filing the appeal pursuant to section 119.12 1084
of the Revised Code and this division is tolled during the 1085
pendency of the request or the challenge and review. If the court 1086
in an appeal under section 119.12 of the Revised Code and this 1087
division enters a judgment sustaining the sheriff's refusal to 1088
grant to the applicant a concealed handgun license, the applicant 1089
may file a new application beginning one year after the judgment 1090
is entered. If the court enters a judgment in favor of the 1091
applicant, that judgment shall not restrict the authority of a 1092
sheriff to suspend or revoke the license pursuant to section 1093
2923.128 or 2923.1213 of the Revised Code or to refuse to renew 1094
the license for any proper cause that may occur after the date the 1095
judgment is entered. In the appeal, the court shall have full 1096
power to dispose of all costs. 1097

(3) If the sheriff with whom an application for a concealed 1098
handgun license was filed under this section becomes aware that 1099
the applicant has been arrested for or otherwise charged with an 1100
offense that would disqualify the applicant from holding the 1101
license, the sheriff shall suspend the processing of the 1102
application until the disposition of the case arising from the 1103
arrest or charge. 1104

(4) If the sheriff determines that the applicant is legally 1105
living in the United States and is a resident of the county in 1106
which the applicant seeks the license or of an adjacent county but 1107
does not yet meet the residency requirements described in division 1108
(D)(1)(a) of this section, the sheriff shall not deny the license 1109
because of the residency requirements but shall not issue the 1110

license until the applicant meets those residency requirements. 1111

(5) If an applicant has been convicted of or pleaded guilty 1112
to an offense identified in division (D)(1)(e), (f), or (h) of 1113
this section or has been adjudicated a delinquent child for 1114
committing an act or violation identified in any of those 1115
divisions, and if a court has ordered the sealing or expungement 1116
of the records of that conviction, guilty plea, or adjudication 1117
pursuant to sections 2151.355 to 2151.358, sections 2953.31 to 1118
2953.36, or section 2953.37 of the Revised Code or a court has 1119
granted the applicant relief pursuant to section 2923.14 of the 1120
Revised Code from the disability imposed pursuant to section 1121
2923.13 of the Revised Code relative to that conviction, guilty 1122
plea, or adjudication, the sheriff with whom the application was 1123
submitted shall not consider the conviction, guilty plea, or 1124
adjudication in making a determination under division (D)(1) or 1125
(F) of this section or, in relation to an application for a 1126
concealed handgun license on a temporary emergency basis submitted 1127
under section 2923.1213 of the Revised Code, in making a 1128
determination under division (B)(2) of that section. 1129

(E) If a concealed handgun license issued under this section 1130
is lost or is destroyed, the licensee may obtain from the sheriff 1131
who issued that license a duplicate license upon the payment of a 1132
fee of fifteen dollars and the submission of an affidavit 1133
attesting to the loss or destruction of the license. The sheriff, 1134
in accordance with the procedures prescribed in section 109.731 of 1135
the Revised Code, shall place on the replacement license a 1136
combination of identifying numbers different from the combination 1137
on the license that is being replaced. 1138

(F)(1) A licensee who wishes to renew a concealed handgun 1139
license issued under this section shall do so not earlier than 1140
ninety days before the expiration date of the license or at any 1141
time after the expiration date of the license by filing with the 1142

sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license obtained pursuant to division (D) of this section, a certification by the applicant that, subsequent to the issuance of the license, the applicant has reread 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, and a nonrefundable license renewal fee in an amount determined pursuant to division (F)(4) of this section unless the fee is waived.

(2) A sheriff shall accept a completed renewal application, the license renewal fee, and the information specified in division (F)(1) of this section at the times and in the manners described in division (I) of this section. Upon receipt of a completed renewal application, of certification that the applicant has reread the specified pamphlet prepared by the Ohio peace officer training commission, and of a license renewal fee unless the fee is waived, 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. The sheriff shall renew the license if the sheriff determines that the applicant continues to satisfy the requirements described in division (D)(1) of this section, except that the applicant is not required to meet the requirements of division (D)(1)(1) of this section. A renewed license shall expire five years after the date of issuance. A renewed license is subject to division (E) of this section and sections 2923.126 and 2923.128 of the Revised Code. A sheriff shall comply with divisions (D)(2) to (4) of this section when the circumstances described in those divisions apply to a requested license renewal. If a sheriff denies the renewal of a concealed handgun license, the applicant may appeal the denial, or challenge the criminal record check results that were the basis of the

denial if applicable, in the same manner as specified in division 1176
(D)(2)(b) of this section and in section 2923.127 of the Revised 1177
Code, regarding the denial of a license under this section. 1178

(3) A renewal application submitted pursuant to division (F) 1179
of this section shall only require the licensee to list on the 1180
application form information and matters occurring since the date 1181
of the licensee's last application for a license pursuant to 1182
division (B) or (F) of this section. A sheriff conducting the 1183
criminal records check and the incompetency records check 1184
described in section 311.41 of the Revised Code shall conduct the 1185
check only from the date of the licensee's last application for a 1186
license pursuant to division (B) or (F) of this section through 1187
the date of the renewal application submitted pursuant to division 1188
(F) of this section. 1189

(4) An applicant for a renewal concealed handgun license 1190
under this section shall submit to the sheriff of the county in 1191
which the applicant resides or to the sheriff of any county 1192
adjacent to the county in which the applicant resides a 1193
nonrefundable license fee as described in either of the following: 1194

(a) For an applicant who has been a resident of this state 1195
for five or more years, a fee of fifty dollars; 1196

(b) For an applicant who has been a resident of this state 1197
for less than five years, a fee of fifty dollars plus the actual 1198
cost of having a background check performed by the federal bureau 1199
of investigation. 1200

(G)(1) Each course, class, or program described in division 1201
(B)(3)(a), (b), (c), or (e) of this section shall provide to each 1202
person who takes the course, class, or program the web site 1203
address at which the pamphlet prepared by the Ohio peace officer 1204
training commission pursuant to section 109.731 of the Revised 1205
Code that reviews firearms, dispute resolution, and use of deadly 1206

force matters may be found. Each such course, class, or program 1207
described in one of those divisions shall include at least twelve 1208
hours of training in the safe handling and use of a firearm that 1209
shall include all of the following: 1210

(a) At least ten hours of training on the following matters: 1211

(i) The ability to name, explain, and demonstrate the rules 1212
for safe handling of a handgun and proper storage practices for 1213
handguns and ammunition; 1214

(ii) The ability to demonstrate and explain how to handle 1215
ammunition in a safe manner; 1216

(iii) The ability to demonstrate the knowledge, skills, and 1217
attitude necessary to shoot a handgun in a safe manner; 1218

(iv) Gun handling training. 1219

(b) At least two hours of training that consists of range 1220
time and live-fire training. 1221

(2) To satisfactorily complete the course, class, or program 1222
described in division (B)(3)(a), (b), (c), or (e) of this section, 1223
the applicant shall pass a competency examination that shall 1224
include both of the following: 1225

(a) A written section on the ability to name and explain the 1226
rules for the safe handling of a handgun and proper storage 1227
practices for handguns and ammunition; 1228

(b) A physical demonstration of competence in the use of a 1229
handgun and in the rules for safe handling and storage of a 1230
handgun and a physical demonstration of the attitude necessary to 1231
shoot a handgun in a safe manner. 1232

(3) The competency certification described in division 1233
(B)(3)(a), (b), (c), or (e) of this section shall be dated and 1234
shall attest that the course, class, or program the applicant 1235
successfully completed met the requirements described in division 1236

(G)(1) of this section and that the applicant passed the 1237
competency examination described in division (G)(2) of this 1238
section. 1239

(H) Upon deciding to issue a concealed handgun license, 1240
deciding to issue a replacement concealed handgun license, or 1241
deciding to renew a concealed handgun license pursuant to this 1242
section, and before actually issuing or renewing the license, the 1243
sheriff shall make available through the law enforcement automated 1244
data system all information contained on the license. If the 1245
license subsequently is suspended under division (A)(1) or (2) of 1246
section 2923.128 of the Revised Code, revoked pursuant to division 1247
(B)(1) of section 2923.128 of the Revised Code, or lost or 1248
destroyed, the sheriff also shall make available through the law 1249
enforcement automated data system a notation of that fact. The 1250
superintendent of the state highway patrol shall ensure that the 1251
law enforcement automated data system is so configured as to 1252
permit the transmission through the system of the information 1253
specified in this division. 1254

(I) A sheriff shall accept a completed application form or 1255
renewal application, and the fee, items, materials, and 1256
information specified in divisions (B)(1) to (5) or division (F) 1257
of this section, whichever is applicable, and shall provide an 1258
application form or renewal application to any person during at 1259
least fifteen hours a week and shall provide the web site address 1260
at which the pamphlet described in division (B) of section 109.731 1261
of the Revised Code may be found at any time, upon request. The 1262
sheriff shall post notice of the hours during which the sheriff is 1263
available to accept or provide the information described in this 1264
division. 1265

Sec. 2923.1213. (A) As used in this section: 1266

(1) "Evidence of imminent danger" means any of the following: 1267

(a) A statement sworn by the person seeking to carry a
concealed handgun that is made under threat of perjury and that
states that the person has reasonable cause to fear a criminal
attack upon the person or a member of the person's family, such as
would justify a prudent person in going armed;

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

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

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

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

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

of this section does not apply; within three years of the date of 1299
the submission, has not been convicted of or pleaded guilty to an 1300
offense, and has not been adjudicated a delinquent child for 1301
committing an act, identified in division (D)(1)(f) of that 1302
section and to which division (B)(3) of this section does not 1303
apply; within five years of the date of the submission, has not 1304
been convicted of, pleaded guilty, or adjudicated a delinquent 1305
child for committing two or more violations identified in division 1306
(D)(1)(g) of that section; within ten years of the date of the 1307
submission, has not been convicted of, pleaded guilty, or 1308
adjudicated a delinquent child for committing a violation 1309
identified in division (D)(1)(h) of that section and to which 1310
division (B)(3) of this section does not apply; has not been 1311
adjudicated as a mental defective, has not been committed to any 1312
mental institution, is not under adjudication of mental 1313
incompetence, has not been found by a court to be a mentally ill 1314
person subject to ~~hospitalization by~~ court order, and is not an 1315
involuntary patient other than one who is a patient only for 1316
purposes of observation, as described in division (D)(1)(i) of 1317
that section; is not currently subject to a civil protection 1318
order, a temporary protection order, or a protection order issued 1319
by a court of another state, as described in division (D)(1)(j) of 1320
that section; and is not currently subject to a suspension imposed 1321
under division (A)(2) of section 2923.128 of the Revised Code of a 1322
concealed handgun license that previously was issued to the 1323
person; 1324

(c) A nonrefundable temporary emergency license fee as 1325
described in either of the following: 1326

(i) For an applicant who has been a resident of this state 1327
for five or more years, a fee of fifteen dollars plus the actual 1328
cost of having a background check performed by the bureau of 1329
criminal identification and investigation pursuant to section 1330

311.41 of the Revised Code; 1331

(ii) For an applicant who has been a resident of this state 1332
for less than five years, a fee of fifteen dollars plus the actual 1333
cost of having background checks performed by the federal bureau 1334
of investigation and the bureau of criminal identification and 1335
investigation pursuant to section 311.41 of the Revised Code. 1336

(d) A set of fingerprints of the applicant provided as 1337
described in section 311.41 of the Revised Code through use of an 1338
electronic fingerprint reading device or, if the sheriff to whom 1339
the application is submitted does not possess and does not have 1340
ready access to the use of an electronic fingerprint reading 1341
device, on a standard impression sheet prescribed pursuant to 1342
division (C)(2) of section 109.572 of the Revised Code. If the 1343
fingerprints are provided on a standard impression sheet, the 1344
person also shall provide the person's social security number to 1345
the sheriff. 1346

(2) A sheriff shall accept the evidence of imminent danger, 1347
the sworn affidavit, the fee, and the set of fingerprints required 1348
under division (B)(1) of this section at the times and in the 1349
manners described in division (I) of this section. Upon receipt of 1350
the evidence of imminent danger, the sworn affidavit, the fee, and 1351
the set of fingerprints required under division (B)(1) of this 1352
section, the sheriff, in the manner specified in section 311.41 of 1353
the Revised Code, immediately shall conduct or cause to be 1354
conducted the criminal records check and the incompetency records 1355
check described in section 311.41 of the Revised Code. Immediately 1356
upon receipt of the results of the records checks, the sheriff 1357
shall review the information and shall determine whether the 1358
criteria set forth in divisions (D)(1)(a) to (j) and (m) of 1359
section 2923.125 of the Revised Code apply regarding the person. 1360
If the sheriff determines that all of criteria set forth in 1361
divisions (D)(1)(a) to (j) and (m) of section 2923.125 of the 1362

Revised Code apply regarding the person, the sheriff shall 1363
immediately make available through the law enforcement automated 1364
data system all information that will be contained on the 1365
temporary emergency license for the person if one is issued, and 1366
the superintendent of the state highway patrol shall ensure that 1367
the system is so configured as to permit the transmission through 1368
the system of that information. Upon making that information 1369
available through the law enforcement automated data system, the 1370
sheriff shall immediately issue to the person a concealed handgun 1371
license on a temporary emergency basis. 1372

If the sheriff denies the issuance of a license on a 1373
temporary emergency basis to the person, the sheriff shall specify 1374
the grounds for the denial in a written notice to the person. The 1375
person may appeal the denial, or challenge criminal records check 1376
results that were the basis of the denial if applicable, in the 1377
same manners specified in division (D)(2) of section 2923.125 and 1378
in section 2923.127 of the Revised Code, regarding the denial of 1379
an application for a concealed handgun license under that section. 1380

The license on a temporary emergency basis issued under this 1381
division shall be in the form, and shall include all of the 1382
information, described in divisions (A)(2) and (5) of section 1383
109.731 of the Revised Code, and also shall include a unique 1384
combination of identifying letters and numbers in accordance with 1385
division (A)(4) of that section. 1386

The license on a temporary emergency basis issued under this 1387
division is valid for ninety days and may not be renewed. A person 1388
who has been issued a license on a temporary emergency basis under 1389
this division shall not be issued another license on a temporary 1390
emergency basis unless at least four years has expired since the 1391
issuance of the prior license on a temporary emergency basis. 1392

(3) If a person seeking a concealed handgun license on a 1393
temporary emergency basis has been convicted of or pleaded guilty 1394

to an offense identified in division (D)(1)(e), (f), or (h) of 1395
section 2923.125 of the Revised Code or has been adjudicated a 1396
delinquent child for committing an act or violation identified in 1397
any of those divisions, and if a court has ordered the sealing or 1398
expungement of the records of that conviction, guilty plea, or 1399
adjudication pursuant to sections 2151.355 to 2151.358 or sections 1400
2953.31 to 2953.36 of the Revised Code or a court has granted the 1401
applicant relief pursuant to section 2923.14 of the Revised Code 1402
from the disability imposed pursuant to section 2923.13 of the 1403
Revised Code relative to that conviction, guilty plea, or 1404
adjudication, the conviction, guilty plea, or adjudication shall 1405
not be relevant for purposes of the sworn affidavit described in 1406
division (B)(1)(b) of this section, and the person may complete, 1407
and swear to the truth of, the affidavit as if the conviction, 1408
guilty plea, or adjudication never had occurred. 1409

(4) The sheriff shall waive the payment pursuant to division 1410
(B)(1)(c) of this section of the license fee in connection with an 1411
application that is submitted by an applicant who is a retired 1412
peace officer, a retired person described in division (B)(1)(b) of 1413
section 109.77 of the Revised Code, or a retired federal law 1414
enforcement officer who, prior to retirement, was authorized under 1415
federal law to carry a firearm in the course of duty, unless the 1416
retired peace officer, person, or federal law enforcement officer 1417
retired as the result of a mental disability. 1418

The sheriff shall deposit all fees paid by an applicant under 1419
division (B)(1)(c) of this section into the sheriff's concealed 1420
handgun license issuance fund established pursuant to section 1421
311.42 of the Revised Code. 1422

(C) A person who holds a concealed handgun license on a 1423
temporary emergency basis has the same right to carry a concealed 1424
handgun as a person who was issued a concealed handgun license 1425
under section 2923.125 of the Revised Code, and any exceptions to 1426

the prohibitions contained in section 1547.69 and sections 2923.12 1427
to 2923.16 of the Revised Code for a licensee under section 1428
2923.125 of the Revised Code apply to a licensee under this 1429
section. The person is subject to the same restrictions, and to 1430
all other procedures, duties, and sanctions, that apply to a 1431
person who carries a license issued under section 2923.125 of the 1432
Revised Code, other than the license renewal procedures set forth 1433
in that section. 1434

(D) A sheriff who issues a concealed handgun license on a 1435
temporary emergency basis under this section shall not require a 1436
person seeking to carry a concealed handgun in accordance with 1437
this section to submit a competency certificate as a prerequisite 1438
for issuing the license and shall comply with division (H) of 1439
section 2923.125 of the Revised Code in regards to the license. 1440
The sheriff shall suspend or revoke the license in accordance with 1441
section 2923.128 of the Revised Code. In addition to the 1442
suspension or revocation procedures set forth in section 2923.128 1443
of the Revised Code, the sheriff may revoke the license upon 1444
receiving information, verifiable by public documents, that the 1445
person is not eligible to possess a firearm under either the laws 1446
of this state or of the United States or that the person committed 1447
perjury in obtaining the license; if the sheriff revokes a license 1448
under this additional authority, the sheriff shall notify the 1449
person, by certified mail, return receipt requested, at the 1450
person's last known residence address that the license has been 1451
revoked and that the person is required to surrender the license 1452
at the sheriff's office within ten days of the date on which the 1453
notice was mailed. Division (H) of section 2923.125 of the Revised 1454
Code applies regarding any suspension or revocation of a concealed 1455
handgun license on a temporary emergency basis. 1456

(E) A sheriff who issues a concealed handgun license on a 1457
temporary emergency basis under this section shall retain, for the 1458

entire period during which the license is in effect, the evidence 1459
of imminent danger that the person submitted to the sheriff and 1460
that was the basis for the license, or a copy of that evidence, as 1461
appropriate. 1462

(F) If a concealed handgun license on a temporary emergency 1463
basis issued under this section is lost or is destroyed, the 1464
licensee may obtain from the sheriff who issued that license a 1465
duplicate license upon the payment of a fee of fifteen dollars and 1466
the submission of an affidavit attesting to the loss or 1467
destruction of the license. The sheriff, in accordance with the 1468
procedures prescribed in section 109.731 of the Revised Code, 1469
shall place on the replacement license a combination of 1470
identifying numbers different from the combination on the license 1471
that is being replaced. 1472

(G) The Ohio peace officer training commission shall 1473
prescribe, and shall make available to sheriffs, a standard form 1474
to be used under division (B) of this section by a person who 1475
applies for a concealed handgun license on a temporary emergency 1476
basis on the basis of imminent danger of a type described in 1477
division (A)(1)(a) of this section. 1478

(H) A sheriff who receives any fees paid by a person under 1479
this section shall deposit all fees so paid into the sheriff's 1480
concealed handgun license issuance expense fund established under 1481
section 311.42 of the Revised Code. 1482

(I) A sheriff shall accept evidence of imminent danger, a 1483
sworn affidavit, the fee, and the set of fingerprints specified in 1484
division (B)(1) of this section at any time during normal business 1485
hours. In no case shall a sheriff require an appointment, or 1486
designate a specific period of time, for the submission or 1487
acceptance of evidence of imminent danger, a sworn affidavit, the 1488
fee, and the set of fingerprints specified in division (B)(1) of 1489
this section, or for the provision to any person of a standard 1490

form to be used for a person to apply for a concealed handgun license on a temporary emergency basis.

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

(1) The person is a fugitive from justice.

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

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

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

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

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

while under disability, a felony of the third degree. 1521

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of 1522
the Revised Code: 1523

(1) "Prosecutor" means a prosecuting attorney or a city 1524
director of law, village solicitor, or similar chief legal officer 1525
of a municipal corporation who has authority to prosecute a 1526
criminal case that is before the court or the criminal case in 1527
which a defendant in a criminal case has been found incompetent to 1528
stand trial or not guilty by reason of insanity. 1529

(2) "Examiner" means either of the following: 1530

(a) A psychiatrist or a licensed clinical psychologist who 1531
satisfies the criteria of division (I) of section 5122.01 of the 1532
Revised Code or is employed by a certified forensic center 1533
designated by the department of mental health and addiction 1534
services to conduct examinations or evaluations. 1535

(b) For purposes of a separate mental retardation evaluation 1536
that is ordered by a court pursuant to division (H) of section 1537
2945.371 of the Revised Code, a psychologist designated by the 1538
director of developmental disabilities pursuant to that section to 1539
conduct that separate mental retardation evaluation. 1540

(3) "Nonsecured status" means any unsupervised, off-grounds 1541
movement or trial visit from a hospital or institution, or any 1542
conditional release, that is granted to a person who is found 1543
incompetent to stand trial and is committed pursuant to section 1544
2945.39 of the Revised Code or to a person who is found not guilty 1545
by reason of insanity and is committed pursuant to section 2945.40 1546
of the Revised Code. 1547

(4) "Unsupervised, off-grounds movement" includes only 1548
off-grounds privileges that are unsupervised and that have an 1549
expectation of return to the hospital or institution on a daily 1550

basis. 1551

(5) "Trial visit" means a patient privilege of a longer 1552
stated duration of unsupervised community contact with an 1553
expectation of return to the hospital or institution at designated 1554
times. 1555

(6) "Conditional release" means a commitment status under 1556
which the trial court at any time may revoke a person's 1557
conditional release and order the rehospitalization or 1558
reinstitutionalization of the person as described in division (A) 1559
of section 2945.402 of the Revised Code and pursuant to which a 1560
person who is found incompetent to stand trial or a person who is 1561
found not guilty by reason of insanity lives and receives 1562
treatment in the community for a period of time that does not 1563
exceed the maximum prison term or term of imprisonment that the 1564
person could have received for the offense in question had the 1565
person been convicted of the offense instead of being found 1566
incompetent to stand trial on the charge of the offense or being 1567
found not guilty by reason of insanity relative to the offense. 1568

(7) "Licensed clinical psychologist," "mentally ill person 1569
subject to ~~hospitalization~~ by court order," and "psychiatrist" 1570
have the same meanings as in section 5122.01 of the Revised Code. 1571

(8) "Mentally retarded person subject to institutionalization 1572
by court order" has the same meaning as in section 5123.01 of the 1573
Revised Code. 1574

(B) In a criminal action in a court of common pleas, a county 1575
court, or a municipal court, the court, prosecutor, or defense may 1576
raise the issue of the defendant's competence to stand trial. If 1577
the issue is raised before the trial has commenced, the court 1578
shall hold a hearing on the issue as provided in this section. If 1579
the issue is raised after the trial has commenced, the court shall 1580
hold a hearing on the issue only for good cause shown or on the 1581

court's own motion. 1582

(C) The court shall conduct the hearing required or 1583
authorized under division (B) of this section within thirty days 1584
after the issue is raised, unless the defendant has been referred 1585
for evaluation in which case the court shall conduct the hearing 1586
within ten days after the filing of the report of the evaluation 1587
or, in the case of a defendant who is ordered by the court 1588
pursuant to division (H) of section 2945.371 of the Revised Code 1589
to undergo a separate mental retardation evaluation conducted by a 1590
psychologist designated by the director of developmental 1591
disabilities, within ten days after the filing of the report of 1592
the separate mental retardation evaluation under that division. A 1593
hearing may be continued for good cause. 1594

(D) The defendant shall be represented by counsel at the 1595
hearing conducted under division (C) of this section. If the 1596
defendant is unable to obtain counsel, the court shall appoint 1597
counsel under Chapter 120. of the Revised Code or under the 1598
authority recognized in division (C) of section 120.06, division 1599
(E) of section 120.16, division (E) of section 120.26, or section 1600
2941.51 of the Revised Code before proceeding with the hearing. 1601

(E) The prosecutor and defense counsel may submit evidence on 1602
the issue of the defendant's competence to stand trial. A written 1603
report of the evaluation of the defendant may be admitted into 1604
evidence at the hearing by stipulation, but, if either the 1605
prosecution or defense objects to its admission, the report may be 1606
admitted under sections 2317.36 to 2317.38 of the Revised Code or 1607
any other applicable statute or rule. 1608

(F) The court shall not find a defendant incompetent to stand 1609
trial solely because the defendant is receiving or has received 1610
treatment as a voluntary or involuntary mentally ill patient under 1611
Chapter 5122. or a voluntary or involuntary mentally retarded 1612
resident under Chapter 5123. of the Revised Code or because the 1613

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 and addiction services. Those evaluations shall be performed through community resources including, but not limited to, certified forensic centers, court probation departments, and community mental health services providers. 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 1645
shall be proceeded against as provided by law. If the court finds 1646
the defendant competent to stand trial and the defendant is 1647
receiving psychotropic drugs or other medication, the court may 1648
authorize the continued administration of the drugs or medication 1649
or other appropriate treatment in order to maintain the 1650
defendant's competence to stand trial, unless the defendant's 1651
attending physician advises the court against continuation of the 1652
drugs, other medication, or treatment. 1653

(B)(1)(a) If, after taking into consideration all relevant 1654
reports, information, and other evidence, the court finds that the 1655
defendant is incompetent to stand trial and that there is a 1656
substantial probability that the defendant will become competent 1657
to stand trial within one year if the defendant is provided with a 1658
course of treatment, the court shall order the defendant to 1659
undergo treatment. If the defendant has been charged with a felony 1660
offense and if, after taking into consideration all relevant 1661
reports, information, and other evidence, the court finds that the 1662
defendant is incompetent to stand trial, but the court is unable 1663
at that time to determine whether there is a substantial 1664
probability that the defendant will become competent to stand 1665
trial within one year if the defendant is provided with a course 1666
of treatment, the court shall order continuing evaluation and 1667
treatment of the defendant for a period not to exceed four months 1668
to determine whether there is a substantial probability that the 1669
defendant will become competent to stand trial within one year if 1670
the defendant is provided with a course of treatment. 1671

(b) The court order for the defendant to undergo treatment or 1672
continuing evaluation and treatment under division (B)(1)(a) of 1673
this section shall specify that the defendant, if determined to 1674
require mental health treatment or continuing evaluation and 1675
treatment, either shall be committed to the department of mental 1676

health and addiction services for treatment or continuing 1677
evaluation and treatment at a hospital, facility, or agency, as 1678
determined to be clinically appropriate by the department of 1679
mental health and addiction services or shall be committed to a 1680
facility certified by the department of mental health and 1681
addiction services as being qualified to treat mental illness, to 1682
a public or community mental health facility, or to a psychiatrist 1683
or another mental health professional for treatment or continuing 1684
evaluation and treatment. Prior to placing the defendant, the 1685
department of mental health and addiction services shall obtain 1686
court approval for that placement following a hearing. The court 1687
order for the defendant to undergo treatment or continuing 1688
evaluation and treatment under division (B)(1)(a) of this section 1689
shall specify that the defendant, if determined to require 1690
treatment or continuing evaluation and treatment for mental 1691
retardation, shall receive treatment or continuing evaluation and 1692
treatment at an institution or facility operated by the department 1693
of developmental disabilities, at a facility certified by the 1694
department of developmental disabilities as being qualified to 1695
treat mental retardation, at a public or private mental 1696
retardation facility, or by a psychiatrist or another mental 1697
retardation professional. In any case, the order may restrict the 1698
defendant's freedom of movement as the court considers necessary. 1699
The prosecutor in the defendant's case shall send to the chief 1700
clinical officer of the hospital, facility, or agency where the 1701
defendant is placed by the department of mental health and 1702
addiction services, or to the managing officer of the institution, 1703
the director of the program or facility, or the person to which 1704
the defendant is committed, copies of relevant police reports and 1705
other background information that pertains to the defendant and is 1706
available to the prosecutor unless the prosecutor determines that 1707
the release of any of the information in the police reports or any 1708
of the other background information to unauthorized persons would 1709

interfere with the effective prosecution of any person or would 1710
create a substantial risk of harm to any person. 1711

In determining the place of commitment, the court shall 1712
consider the extent to which the person is a danger to the person 1713
and to others, the need for security, and the type of crime 1714
involved and shall order the least restrictive alternative 1715
available that is consistent with public safety and treatment 1716
goals. In weighing these factors, the court shall give preference 1717
to protecting public safety. 1718

(c) If the defendant is found incompetent to stand trial, if 1719
the chief clinical officer of the hospital, facility, or agency 1720
where the defendant is placed, or the managing officer of the 1721
institution, the director of the program or facility, or the 1722
person to which the defendant is committed for treatment or 1723
continuing evaluation and treatment under division (B)(1)(b) of 1724
this section determines that medication is necessary to restore 1725
the defendant's competency to stand trial, and if the defendant 1726
lacks the capacity to give informed consent or refuses medication, 1727
the chief clinical officer of the hospital, facility, or agency 1728
where the defendant is placed, or the managing officer of the 1729
institution, the director of the program or facility, or the 1730
person to which the defendant is committed for treatment or 1731
continuing evaluation and treatment may petition the court for 1732
authorization for the involuntary administration of medication. 1733
The court shall hold a hearing on the petition within five days of 1734
the filing of the petition if the petition was filed in a 1735
municipal court or a county court regarding an incompetent 1736
defendant charged with a misdemeanor or within ten days of the 1737
filing of the petition if the petition was filed in a court of 1738
common pleas regarding an incompetent defendant charged with a 1739
felony offense. Following the hearing, the court may authorize the 1740
involuntary administration of medication or may dismiss the 1741

petition. 1742

(2) If the court finds that the defendant is incompetent to 1743
stand trial and that, even if the defendant is provided with a 1744
course of treatment, there is not a substantial probability that 1745
the defendant will become competent to stand trial within one 1746
year, the court shall order the discharge of the defendant, unless 1747
upon motion of the prosecutor or on its own motion, the court 1748
either seeks to retain jurisdiction over the defendant pursuant to 1749
section 2945.39 of the Revised Code or files an affidavit in the 1750
probate court for the civil commitment of the defendant pursuant 1751
to Chapter 5122. or 5123. of the Revised Code alleging that the 1752
defendant is a mentally ill person subject to ~~hospitalization by~~ 1753
court order or a mentally retarded person subject to 1754
institutionalization by court order. If an affidavit is filed in 1755
the probate court, the trial court shall send to the probate court 1756
copies of all written reports of the defendant's mental condition 1757
that were prepared pursuant to section 2945.371 of the Revised 1758
Code. 1759

The trial court may issue the temporary order of detention 1760
that a probate court may issue under section 5122.11 or 5123.71 of 1761
the Revised Code, to remain in effect until the probable cause or 1762
initial hearing in the probate court. Further proceedings in the 1763
probate court are civil proceedings governed by Chapter 5122. or 1764
5123. of the Revised Code. 1765

(C) No defendant shall be required to undergo treatment, 1766
including any continuing evaluation and treatment, under division 1767
(B)(1) of this section for longer than whichever of the following 1768
periods is applicable: 1769

(1) One year, if the most serious offense with which the 1770
defendant is charged is one of the following offenses: 1771

(a) Aggravated murder, murder, or an offense of violence for 1772

which a sentence of death or life imprisonment may be imposed; 1773

(b) An offense of violence that is a felony of the first or 1774
second degree; 1775

(c) A conspiracy to commit, an attempt to commit, or 1776
complicity in the commission of an offense described in division 1777
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 1778
complicity is a felony of the first or second degree. 1779

(2) Six months, if the most serious offense with which the 1780
defendant is charged is a felony other than a felony described in 1781
division (C)(1) of this section; 1782

(3) Sixty days, if the most serious offense with which the 1783
defendant is charged is a misdemeanor of the first or second 1784
degree; 1785

(4) Thirty days, if the most serious offense with which the 1786
defendant is charged is a misdemeanor of the third or fourth 1787
degree, a minor misdemeanor, or an unclassified misdemeanor. 1788

(D) Any defendant who is committed pursuant to this section 1789
shall not voluntarily admit the defendant or be voluntarily 1790
admitted to a hospital or institution pursuant to section 5122.02, 1791
5122.15, 5123.69, or 5123.76 of the Revised Code. 1792

(E) Except as otherwise provided in this division, a 1793
defendant who is charged with an offense and is committed by the 1794
court under this section to the department of mental health and 1795
addiction services or is committed to an institution or facility 1796
for the treatment of mental retardation shall not be granted 1797
unsupervised on-grounds movement, supervised off-grounds movement, 1798
or nonsecured status except in accordance with the court order. 1799
The court may grant a defendant supervised off-grounds movement to 1800
obtain medical treatment or specialized habilitation treatment 1801
services if the person who supervises the treatment or the 1802
continuing evaluation and treatment of the defendant ordered under 1803

division (B)(1)(a) of this section informs the court that the 1804
treatment or continuing evaluation and treatment cannot be 1805
provided at the hospital or facility where the defendant is placed 1806
by the department of mental health and addiction services or the 1807
institution or facility to which the defendant is committed. The 1808
chief clinical officer of the hospital or facility where the 1809
defendant is placed by the department of mental health and 1810
addiction services or the managing officer of the institution or 1811
director of the facility to which the defendant is committed, or a 1812
designee of any of those persons, may grant a defendant movement 1813
to a medical facility for an emergency medical situation with 1814
appropriate supervision to ensure the safety of the defendant, 1815
staff, and community during that emergency medical situation. The 1816
chief clinical officer of the hospital or facility where the 1817
defendant is placed by the department of mental health and 1818
addiction services or the managing officer of the institution or 1819
director of the facility to which the defendant is committed shall 1820
notify the court within twenty-four hours of the defendant's 1821
movement to the medical facility for an emergency medical 1822
situation under this division. 1823

(F) The person who supervises the treatment or continuing 1824
evaluation and treatment of a defendant ordered to undergo 1825
treatment or continuing evaluation and treatment under division 1826
(B)(1)(a) of this section shall file a written report with the 1827
court at the following times: 1828

(1) Whenever the person believes the defendant is capable of 1829
understanding the nature and objective of the proceedings against 1830
the defendant and of assisting in the defendant's defense; 1831

(2) For a felony offense, fourteen days before expiration of 1832
the maximum time for treatment as specified in division (C) of 1833
this section and fourteen days before the expiration of the 1834
maximum time for continuing evaluation and treatment as specified 1835

in division (B)(1)(a) of this section, and, for a misdemeanor 1836
offense, ten days before the expiration of the maximum time for 1837
treatment, as specified in division (C) of this section; 1838

(3) At a minimum, after each six months of treatment; 1839

(4) Whenever the person who supervises the treatment or 1840
continuing evaluation and treatment of a defendant ordered under 1841
division (B)(1)(a) of this section believes that there is not a 1842
substantial probability that the defendant will become capable of 1843
understanding the nature and objective of the proceedings against 1844
the defendant or of assisting in the defendant's defense even if 1845
the defendant is provided with a course of treatment. 1846

(G) A report under division (F) of this section shall contain 1847
the examiner's findings, the facts in reasonable detail on which 1848
the findings are based, and the examiner's opinion as to the 1849
defendant's capability of understanding the nature and objective 1850
of the proceedings against the defendant and of assisting in the 1851
defendant's defense. If, in the examiner's opinion, the defendant 1852
remains incapable of understanding the nature and objective of the 1853
proceedings against the defendant and of assisting in the 1854
defendant's defense and there is a substantial probability that 1855
the defendant will become capable of understanding the nature and 1856
objective of the proceedings against the defendant and of 1857
assisting in the defendant's defense if the defendant is provided 1858
with a course of treatment, if in the examiner's opinion the 1859
defendant remains mentally ill or mentally retarded, and if the 1860
maximum time for treatment as specified in division (C) of this 1861
section has not expired, the report also shall contain the 1862
examiner's recommendation as to the least restrictive placement or 1863
commitment alternative that is consistent with the defendant's 1864
treatment needs for restoration to competency and with the safety 1865
of the community. The court shall provide copies of the report to 1866
the prosecutor and defense counsel. 1867

(H) If a defendant is committed pursuant to division (B)(1) 1868
of this section, within ten days after the treating physician of 1869
the defendant or the examiner of the defendant who is employed or 1870
retained by the treating facility advises that there is not a 1871
substantial probability that the defendant will become capable of 1872
understanding the nature and objective of the proceedings against 1873
the defendant or of assisting in the defendant's defense even if 1874
the defendant is provided with a course of treatment, within ten 1875
days after the expiration of the maximum time for treatment as 1876
specified in division (C) of this section, within ten days after 1877
the expiration of the maximum time for continuing evaluation and 1878
treatment as specified in division (B)(1)(a) of this section, 1879
within thirty days after a defendant's request for a hearing that 1880
is made after six months of treatment, or within thirty days after 1881
being advised by the treating physician or examiner that the 1882
defendant is competent to stand trial, whichever is the earliest, 1883
the court shall conduct another hearing to determine if the 1884
defendant is competent to stand trial and shall do whichever of 1885
the following is applicable: 1886

(1) If the court finds that the defendant is competent to 1887
stand trial, the defendant shall be proceeded against as provided 1888
by law. 1889

(2) If the court finds that the defendant is incompetent to 1890
stand trial, but that there is a substantial probability that the 1891
defendant will become competent to stand trial if the defendant is 1892
provided with a course of treatment, and the maximum time for 1893
treatment as specified in division (C) of this section has not 1894
expired, the court, after consideration of the examiner's 1895
recommendation, shall order that treatment be continued, may 1896
change the facility or program at which the treatment is to be 1897
continued, and shall specify whether the treatment is to be 1898
continued at the same or a different facility or program. 1899

(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, the director of

the program, or the person to which the defendant is committed or
admitted shall do all of the following:

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

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

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

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

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

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

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, the director of the program, 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, 1993
the court may consider all relevant evidence, including, but not 1994
limited to, any relevant psychiatric, psychological, or medical 1995
testimony or reports, the acts constituting the offense charged, 1996
and any history of the defendant that is relevant to the 1997
defendant's ability to conform to the law. 1998

(C) If the court conducts a hearing as described in division 1999
(A)(2) of this section and if the court does not make both 2000
findings described in divisions (A)(2)(a) and (b) of this section 2001
by clear and convincing evidence, the court shall dismiss the 2002
indictment, information, or complaint against the defendant. Upon 2003
the dismissal, the court shall discharge the defendant unless the 2004
court or prosecutor files an affidavit in probate court for civil 2005
commitment of the defendant pursuant to Chapter 5122. or 5123. of 2006
the Revised Code. If the court or prosecutor files an affidavit 2007
for civil commitment, the court may order that the defendant be 2008
detained for up to ten days pending the civil commitment. If the 2009
probate court commits the defendant subsequent to the court's or 2010
prosecutor's filing of an affidavit for civil commitment, the 2011
chief clinical officer of the entity, hospital, or facility, the 2012
managing officer of the institution, the director of the program, 2013
or the person to which the defendant is committed or admitted 2014
shall send to the prosecutor the notices described in divisions 2015
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 2016
within the periods of time and under the circumstances specified 2017
in those divisions. A dismissal of charges under this division is 2018
not a bar to further criminal proceedings based on the same 2019
conduct. 2020

(D)(1) If the court conducts a hearing as described in 2021
division (A)(2) of this section and if the court makes the 2022
findings described in divisions (A)(2)(a) and (b) of this section 2023
by clear and convincing evidence, the court shall commit the 2024

defendant, if determined to require mental health treatment, 2025
either to the department of mental health and addiction services 2026
for treatment at a hospital, facility, or agency as determined 2027
clinically appropriate by the department of mental health and 2028
addiction services or to another medical or psychiatric facility, 2029
as appropriate. Prior to placing the defendant, the department of 2030
mental health and addiction services shall obtain court approval 2031
for that placement. If the court conducts such a hearing and if it 2032
makes those findings by clear and convincing evidence, the court 2033
shall commit the defendant, if determined to require treatment for 2034
mental retardation, to a facility operated by the department of 2035
developmental disabilities, or another facility, as appropriate. 2036
In determining the place of commitment, the court shall consider 2037
the extent to which the person is a danger to the person and to 2038
others, the need for security, and the type of crime involved and 2039
shall order the least restrictive alternative available that is 2040
consistent with public safety and the welfare of the defendant. In 2041
weighing these factors, the court shall give preference to 2042
protecting public safety. 2043

(2) If a court makes a commitment of a defendant under 2044
division (D)(1) of this section, the prosecutor shall send to the 2045
hospital, facility, or agency where the defendant is placed by the 2046
department of mental health and addiction services or to the 2047
defendant's place of commitment all reports of the defendant's 2048
current mental condition and, except as otherwise provided in this 2049
division, any other relevant information, including, but not 2050
limited to, a transcript of the hearing held pursuant to division 2051
(A)(2) of this section, copies of relevant police reports, and 2052
copies of any prior arrest and conviction records that pertain to 2053
the defendant and that the prosecutor possesses. The prosecutor 2054
shall send the reports of the defendant's current mental condition 2055
in every case of commitment, and, unless the prosecutor determines 2056
that the release of any of the other relevant information to 2057

unauthorized persons would interfere with the effective 2058
prosecution of any person or would create a substantial risk of 2059
harm to any person, the prosecutor also shall send the other 2060
relevant information. Upon admission of a defendant committed 2061
under division (D)(1) of this section, the place of commitment 2062
shall send to the board of alcohol, drug addiction, and mental 2063
health services or the community mental health board serving the 2064
county in which the charges against the defendant were filed a 2065
copy of all reports of the defendant's current mental condition 2066
and a copy of the other relevant information provided by the 2067
prosecutor under this division, including, if provided, a 2068
transcript of the hearing held pursuant to division (A)(2) of this 2069
section, the relevant police reports, and the prior arrest and 2070
conviction records that pertain to the defendant and that the 2071
prosecutor possesses. 2072

(3) If a court makes a commitment under division (D)(1) of 2073
this section, all further proceedings shall be in accordance with 2074
sections 2945.401 and 2945.402 of the Revised Code. 2075

Sec. 2945.40. (A) If a person is found not guilty by reason 2076
of insanity, the verdict shall state that finding, and the trial 2077
court shall conduct a full hearing to determine whether the person 2078
is a mentally ill person subject to ~~hospitalization by~~ court order 2079
or a mentally retarded person subject to institutionalization by 2080
court order. Prior to the hearing, if the trial judge believes 2081
that there is probable cause that the person found not guilty by 2082
reason of insanity is a mentally ill person subject to 2083
~~hospitalization by~~ court order or mentally retarded person subject 2084
to institutionalization by court order, the trial judge may issue 2085
a temporary order of detention for that person to remain in effect 2086
for ten court days or until the hearing, whichever occurs first. 2087

Any person detained pursuant to a temporary order of 2088

detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

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

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the following rights:

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

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

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

against the person; 2120

(4) The right to testify in the person's own behalf and to 2121
not be compelled to testify; 2122

(5) The right to have copies of any relevant medical or 2123
mental health document in the custody of the state or of any place 2124
of commitment other than a document for which the court finds that 2125
the release to the person of information contained in the document 2126
would create a substantial risk of harm to any person. 2127

(D) The hearing under division (A) of this section shall be 2128
open to the public, and the court shall conduct the hearing in 2129
accordance with the Rules of Civil Procedure. The court shall make 2130
and maintain a full transcript and record of the hearing 2131
proceedings. The court may consider all relevant evidence, 2132
including, but not limited to, any relevant psychiatric, 2133
psychological, or medical testimony or reports, the acts 2134
constituting the offense in relation to which the person was found 2135
not guilty by reason of insanity, and any history of the person 2136
that is relevant to the person's ability to conform to the law. 2137

(E) Upon completion of the hearing under division (A) of this 2138
section, if the court finds there is not clear and convincing 2139
evidence that the person is a mentally ill person subject to 2140
~~hospitalization by~~ court order or a mentally retarded person 2141
subject to institutionalization by court order, the court shall 2142
discharge the person, unless a detainer has been placed upon the 2143
person by the department of rehabilitation and correction, in 2144
which case the person shall be returned to that department. 2145

(F) If, at the hearing under division (A) of this section, 2146
the court finds by clear and convincing evidence that the person 2147
is a mentally ill person subject to ~~hospitalization by~~ court 2148
order, the court shall commit the person either to the department 2149
of mental health and addiction services for treatment in a 2150

hospital, facility, or agency as determined clinically appropriate 2151
by the department of mental health and addiction services or to 2152
another medical or psychiatric facility, as appropriate. Prior to 2153
placing the defendant, the department of mental health and 2154
addiction services shall obtain court approval for that placement. 2155
If, at the hearing under division (A) of this section, the court 2156
determines by clear and convincing evidence that the person 2157
requires treatment for mental retardation, it shall commit the 2158
person to a facility operated by the department of developmental 2159
disabilities or another facility, as appropriate. Further 2160
proceedings shall be in accordance with sections 2945.401 and 2161
2945.402 of the Revised Code. In determining the place of 2162
commitment, the court shall consider the extent to which the 2163
person is a danger to the person and to others, the need for 2164
security, and the type of crime involved and shall order the least 2165
restrictive alternative available that is consistent with public 2166
safety and the welfare of the person. In weighing these factors, 2167
the court shall give preference to protecting public safety. 2168

(G) If a court makes a commitment of a person under division 2169
(F) of this section, the prosecutor shall send to the hospital, 2170
facility, or agency where the person is placed by the department 2171
of mental health and addiction services or to the defendant's 2172
place of commitment all reports of the person's current mental 2173
condition, and, except as otherwise provided in this division, any 2174
other relevant information, including, but not limited to, a 2175
transcript of the hearing held pursuant to division (A) of this 2176
section, copies of relevant police reports, and copies of any 2177
prior arrest and conviction records that pertain to the person and 2178
that the prosecutor possesses. The prosecutor shall send the 2179
reports of the person's current mental condition in every case of 2180
commitment, and, unless the prosecutor determines that the release 2181
of any of the other relevant information to unauthorized persons 2182
would interfere with the effective prosecution of any person or 2183

would create a substantial risk of harm to any person, the 2184
prosecutor also shall send the other relevant information. Upon 2185
admission of a person committed under division (F) of this 2186
section, the place of commitment shall send to the board of 2187
alcohol, drug addiction, and mental health services or the 2188
community mental health board serving the county in which the 2189
charges against the person were filed a copy of all reports of the 2190
person's current mental condition and a copy of the other relevant 2191
information provided by the prosecutor under this division, 2192
including, if provided, a transcript of the hearing held pursuant 2193
to division (A) of this section, the relevant police reports, and 2194
the prior arrest and conviction records that pertain to the person 2195
and that the prosecutor possesses. 2196

(H) A person who is committed pursuant to this section shall 2197
not voluntarily admit the person or be voluntarily admitted to a 2198
hospital or institution pursuant to section 5122.02, 5122.15, 2199
5123.69, or 5123.76 of the Revised Code. 2200

Sec. 2945.401. (A) A defendant found incompetent to stand 2201
trial and committed pursuant to section 2945.39 of the Revised 2202
Code or a person found not guilty by reason of insanity and 2203
committed pursuant to section 2945.40 of the Revised Code shall 2204
remain subject to the jurisdiction of the trial court pursuant to 2205
that commitment, and to the provisions of this section, until the 2206
final termination of the commitment as described in division 2207
(J)(1) of this section. If the jurisdiction is terminated under 2208
this division because of the final termination of the commitment 2209
resulting from the expiration of the maximum prison term or term 2210
of imprisonment described in division (J)(1)(b) of this section, 2211
the court or prosecutor may file an affidavit for the civil 2212
commitment of the defendant or person pursuant to Chapter 5122. or 2213
5123. of the Revised Code. 2214

(B) A hearing conducted under any provision of sections 2215
2945.37 to 2945.402 of the Revised Code shall not be conducted in 2216
accordance with Chapters 5122. and 5123. of the Revised Code. Any 2217
person who is committed pursuant to section 2945.39 or 2945.40 of 2218
the Revised Code shall not voluntarily admit the person or be 2219
voluntarily admitted to a hospital or institution pursuant to 2220
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 2221
All other provisions of Chapters 5122. and 5123. of the Revised 2222
Code regarding hospitalization or institutionalization shall apply 2223
to the extent they are not in conflict with this chapter. A 2224
commitment under section 2945.39 or 2945.40 of the Revised Code 2225
shall not be terminated and the conditions of the commitment shall 2226
not be changed except as otherwise provided in division (D)(2) of 2227
this section with respect to a mentally retarded person subject to 2228
institutionalization by court order or except by order of the 2229
trial court. 2230

(C) The department of mental health and addiction services or 2231
the institution, facility, or program to which a defendant or 2232
person has been committed under section 2945.39 or 2945.40 of the 2233
Revised Code shall report in writing to the trial court, at the 2234
times specified in this division, as to whether the defendant or 2235
person remains a mentally ill person subject to ~~hospitalization by~~ 2236
court order or a mentally retarded person subject to 2237
institutionalization by court order and, in the case of a 2238
defendant committed under section 2945.39 of the Revised Code, as 2239
to whether the defendant remains incompetent to stand trial. The 2240
department, institution, facility, or program shall make the 2241
reports after the initial six months of treatment and every two 2242
years after the initial report is made. The trial court shall 2243
provide copies of the reports to the prosecutor and to the counsel 2244
for the defendant or person. Within thirty days after its receipt 2245
pursuant to this division of a report from the department, 2246
institution, facility, or program, the trial court shall hold a 2247

hearing on the continued commitment of the defendant or person or 2248
on any changes in the conditions of the commitment of the 2249
defendant or person. The defendant or person may request a change 2250
in the conditions of confinement, and the trial court shall 2251
conduct a hearing on that request if six months or more have 2252
elapsed since the most recent hearing was conducted under this 2253
section. 2254

(D)(1) Except as otherwise provided in division (D)(2) of 2255
this section, when a defendant or person has been committed under 2256
section 2945.39 or 2945.40 of the Revised Code, at any time after 2257
evaluating the risks to public safety and the welfare of the 2258
defendant or person, the designee of the department of mental 2259
health and addiction services or the managing officer of the 2260
institution or director of the facility or program to which the 2261
defendant or person is committed may recommend a termination of 2262
the defendant's or person's commitment or a change in the 2263
conditions of the defendant's or person's commitment. 2264

Except as otherwise provided in division (D)(2) of this 2265
section, if the designee of the department of mental health and 2266
addiction services recommends on-grounds unsupervised movement, 2267
off-grounds supervised movement, or nonsecured status for the 2268
defendant or person or termination of the defendant's or person's 2269
commitment, the following provisions apply: 2270

(a) If the department's designee recommends on-grounds 2271
unsupervised movement or off-grounds supervised movement, the 2272
department's designee shall file with the trial court an 2273
application for approval of the movement and shall send a copy of 2274
the application to the prosecutor. Within fifteen days after 2275
receiving the application, the prosecutor may request a hearing on 2276
the application and, if a hearing is requested, shall so inform 2277
the department's designee. If the prosecutor does not request a 2278
hearing within the fifteen-day period, the trial court shall 2279

approve the application by entering its order approving the 2280
requested movement or, within five days after the expiration of 2281
the fifteen-day period, shall set a date for a hearing on the 2282
application. If the prosecutor requests a hearing on the 2283
application within the fifteen-day period, the trial court shall 2284
hold a hearing on the application within thirty days after the 2285
hearing is requested. If the trial court, within five days after 2286
the expiration of the fifteen-day period, sets a date for a 2287
hearing on the application, the trial court shall hold the hearing 2288
within thirty days after setting the hearing date. At least 2289
fifteen days before any hearing is held under this division, the 2290
trial court shall give the prosecutor written notice of the date, 2291
time, and place of the hearing. At the conclusion of each hearing 2292
conducted under this division, the trial court either shall 2293
approve or disapprove the application and shall enter its order 2294
accordingly. 2295

(b) If the department's designee recommends termination of 2296
the defendant's or person's commitment at any time or if the 2297
department's designee recommends the first of any nonsecured 2298
status for the defendant or person, the department's designee 2299
shall send written notice of this recommendation to the trial 2300
court and to the local forensic center. The local forensic center 2301
shall evaluate the committed defendant or person and, within 2302
thirty days after its receipt of the written notice, shall submit 2303
to the trial court and the department's designee a written report 2304
of the evaluation. The trial court shall provide a copy of the 2305
department's designee's written notice and of the local forensic 2306
center's written report to the prosecutor and to the counsel for 2307
the defendant or person. Upon the local forensic center's 2308
submission of the report to the trial court and the department's 2309
designee, all of the following apply: 2310

(i) If the forensic center disagrees with the recommendation 2311

of the department's designee, it shall inform the department's 2312
designee and the trial court of its decision and the reasons for 2313
the decision. The department's designee, after consideration of 2314
the forensic center's decision, shall either withdraw, proceed 2315
with, or modify and proceed with the recommendation. If the 2316
department's designee proceeds with, or modifies and proceeds 2317
with, the recommendation, the department's designee shall proceed 2318
in accordance with division (D)(1)(b)(iii) of this section. 2319

(ii) If the forensic center agrees with the recommendation of 2320
the department's designee, it shall inform the department's 2321
designee and the trial court of its decision and the reasons for 2322
the decision, and the department's designee shall proceed in 2323
accordance with division (D)(1)(b)(iii) of this section. 2324

(iii) If the forensic center disagrees with the 2325
recommendation of the department's designee and the department's 2326
designee proceeds with, or modifies and proceeds with, the 2327
recommendation or if the forensic center agrees with the 2328
recommendation of the department's designee, the department's 2329
designee shall work with community mental health services 2330
providers, programs, facilities, or boards of alcohol, drug 2331
addiction, and mental health services or community mental health 2332
boards to develop a plan to implement the recommendation. If the 2333
defendant or person is on medication, the plan shall include, but 2334
shall not be limited to, a system to monitor the defendant's or 2335
person's compliance with the prescribed medication treatment plan. 2336
The system shall include a schedule that clearly states when the 2337
defendant or person shall report for a medication compliance 2338
check. The medication compliance checks shall be based upon the 2339
effective duration of the prescribed medication, taking into 2340
account the route by which it is taken, and shall be scheduled at 2341
intervals sufficiently close together to detect a potential 2342
increase in mental illness symptoms that the medication is 2343

intended to prevent. 2344

The department's designee, after consultation with the board 2345
of alcohol, drug addiction, and mental health services or the 2346
community mental health board serving the area, shall send the 2347
recommendation and plan developed under division (D)(1)(b)(iii) of 2348
this section, in writing, to the trial court, the prosecutor, and 2349
the counsel for the committed defendant or person. The trial court 2350
shall conduct a hearing on the recommendation and plan developed 2351
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 2352
and (d) and (E) to (J) of this section apply regarding the 2353
hearing. 2354

(c) If the department's designee's recommendation is for 2355
nonsecured status or termination of commitment, the prosecutor may 2356
obtain an independent expert evaluation of the defendant's or 2357
person's mental condition, and the trial court may continue the 2358
hearing on the recommendation for a period of not more than thirty 2359
days to permit time for the evaluation. 2360

The prosecutor may introduce the evaluation report or present 2361
other evidence at the hearing in accordance with the Rules of 2362
Evidence. 2363

(d) The trial court shall schedule the hearing on a 2364
department's designee's recommendation for nonsecured status or 2365
termination of commitment and shall give reasonable notice to the 2366
prosecutor and the counsel for the defendant or person. Unless 2367
continued for independent evaluation at the prosecutor's request 2368
or for other good cause, the hearing shall be held within thirty 2369
days after the trial court's receipt of the recommendation and 2370
plan. 2371

(2)(a) Division (D)(1) of this section does not apply to 2372
on-grounds unsupervised movement of a defendant or person who has 2373
been committed under section 2945.39 or 2945.40 of the Revised 2374

Code, who is a mentally retarded person subject to 2375
institutionalization by court order, and who is being provided 2376
residential habilitation, care, and treatment in a facility 2377
operated by the department of developmental disabilities. 2378

(b) If, pursuant to section 2945.39 of the Revised Code, the 2379
trial court commits a defendant who is found incompetent to stand 2380
trial and who is a mentally retarded person subject to 2381
institutionalization by court order, if the defendant is being 2382
provided residential habilitation, care, and treatment in a 2383
facility operated by the department of developmental disabilities, 2384
if an individual who is conducting a survey for the department of 2385
health to determine the facility's compliance with the 2386
certification requirements of the medicaid program cites the 2387
defendant's receipt of the residential habilitation, care, and 2388
treatment in the facility as being inappropriate under the 2389
certification requirements, if the defendant's receipt of the 2390
residential habilitation, care, and treatment in the facility 2391
potentially jeopardizes the facility's continued receipt of 2392
federal medicaid moneys, and if as a result of the citation the 2393
chief clinical officer of the facility determines that the 2394
conditions of the defendant's commitment should be changed, the 2395
department of developmental disabilities may cause the defendant 2396
to be removed from the particular facility and, after evaluating 2397
the risks to public safety and the welfare of the defendant and 2398
after determining whether another type of placement is consistent 2399
with the certification requirements, may place the defendant in 2400
another facility that the department selects as an appropriate 2401
facility for the defendant's continued receipt of residential 2402
habilitation, care, and treatment and that is a no less secure 2403
setting than the facility in which the defendant had been placed 2404
at the time of the citation. Within three days after the 2405
defendant's removal and alternative placement under the 2406
circumstances described in division (D)(2)(b) of this section, the 2407

department of developmental disabilities shall notify the trial 2408
court and the prosecutor in writing of the removal and alternative 2409
placement. 2410

The trial court shall set a date for a hearing on the removal 2411
and alternative placement, and the hearing shall be held within 2412
twenty-one days after the trial court's receipt of the notice from 2413
the department of developmental disabilities. At least ten days 2414
before the hearing is held, the trial court shall give the 2415
prosecutor, the department of developmental disabilities, and the 2416
counsel for the defendant written notice of the date, time, and 2417
place of the hearing. At the hearing, the trial court shall 2418
consider the citation issued by the individual who conducted the 2419
survey for the department of health to be prima-facie evidence of 2420
the fact that the defendant's commitment to the particular 2421
facility was inappropriate under the certification requirements of 2422
the medicaid program and potentially jeopardizes the particular 2423
facility's continued receipt of federal medicaid moneys. At the 2424
conclusion of the hearing, the trial court may approve or 2425
disapprove the defendant's removal and alternative placement. If 2426
the trial court approves the defendant's removal and alternative 2427
placement, the department of developmental disabilities may 2428
continue the defendant's alternative placement. If the trial court 2429
disapproves the defendant's removal and alternative placement, it 2430
shall enter an order modifying the defendant's removal and 2431
alternative placement, but that order shall not require the 2432
department of developmental disabilities to replace the defendant 2433
for purposes of continued residential habilitation, care, and 2434
treatment in the facility associated with the citation issued by 2435
the individual who conducted the survey for the department of 2436
health. 2437

(E) In making a determination under this section regarding 2438
nonsecured status or termination of commitment, the trial court 2439

shall consider all relevant factors, including, but not limited to, all of the following: 2440

(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; 2441

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person; 2442

(3) Whether the defendant or person has insight into the defendant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed; 2443

(4) The grounds upon which the state relies for the proposed commitment; 2444

(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; 2445

(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. 2446

(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. 2447

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows: 2448

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person 2449

remains a mentally ill person subject to ~~hospitalization by~~ court 2470
order or a mentally retarded person subject to 2471
institutionalization by court order; 2472

(2) For a recommendation for a change in the conditions of 2473
the commitment to a less restrictive status, to show by clear and 2474
convincing evidence that the proposed change represents a threat 2475
to public safety or a threat to the safety of any person. 2476

(H) In a hearing held pursuant to division (C) or (D)(1) or 2477
(2) of this section, the prosecutor shall represent the state or 2478
the public interest. 2479

(I) At the conclusion of a hearing conducted under division 2480
(D)(1) of this section regarding a recommendation from the 2481
designee of the department of mental health and addiction 2482
services, managing officer of the institution, or director of a 2483
facility or program, the trial court may approve, disapprove, or 2484
modify the recommendation and shall enter an order accordingly. 2485

(J)(1) A defendant or person who has been committed pursuant 2486
to section 2945.39 or 2945.40 of the Revised Code continues to be 2487
under the jurisdiction of the trial court until the final 2488
termination of the commitment. For purposes of division (J) of 2489
this section, the final termination of a commitment occurs upon 2490
the earlier of one of the following: 2491

(a) The defendant or person no longer is a mentally ill 2492
person subject to ~~hospitalization by~~ court order or a mentally 2493
retarded person subject to institutionalization by court order, as 2494
determined by the trial court; 2495

(b) The expiration of the maximum prison term or term of 2496
imprisonment that the defendant or person could have received if 2497
the defendant or person had been convicted of the most serious 2498
offense with which the defendant or person is charged or in 2499
relation to which the defendant or person was found not guilty by 2500

reason of insanity; 2501

(c) The trial court enters an order terminating the 2502
commitment under the circumstances described in division 2503
(J)(2)(a)(ii) of this section. 2504

(2)(a) If a defendant is found incompetent to stand trial and 2505
committed pursuant to section 2945.39 of the Revised Code, if 2506
neither of the circumstances described in divisions (J)(1)(a) and 2507
(b) of this section applies to that defendant, and if a report 2508
filed with the trial court pursuant to division (C) of this 2509
section indicates that the defendant presently is competent to 2510
stand trial or if, at any other time during the period of the 2511
defendant's commitment, the prosecutor, the counsel for the 2512
defendant, or the designee of the department of mental health and 2513
addiction services or the managing officer of the institution or 2514
director of the facility or program to which the defendant is 2515
committed files an application with the trial court alleging that 2516
the defendant presently is competent to stand trial and requesting 2517
a hearing on the competency issue or the trial court otherwise has 2518
reasonable cause to believe that the defendant presently is 2519
competent to stand trial and determines on its own motion to hold 2520
a hearing on the competency issue, the trial court shall schedule 2521
a hearing on the competency of the defendant to stand trial, shall 2522
give the prosecutor, the counsel for the defendant, and the 2523
department's designee or the managing officer of the institution 2524
or the director of the facility to which the defendant is 2525
committed notice of the date, time, and place of the hearing at 2526
least fifteen days before the hearing, and shall conduct the 2527
hearing within thirty days of the filing of the application or of 2528
its own motion. If, at the conclusion of the hearing, the trial 2529
court determines that the defendant presently is capable of 2530
understanding the nature and objective of the proceedings against 2531
the defendant and of assisting in the defendant's defense, the 2532

trial court shall order that the defendant is competent to stand 2533
trial and shall be proceeded against as provided by law with 2534
respect to the applicable offenses described in division (C)(1) of 2535
section 2945.38 of the Revised Code and shall enter whichever of 2536
the following additional orders is appropriate: 2537

(i) If the trial court determines that the defendant remains 2538
a mentally ill person subject to ~~hospitalization by~~ court order or 2539
a mentally retarded person subject to institutionalization by 2540
court order, the trial court shall order that the defendant's 2541
commitment to the department of mental health and addiction 2542
services or to an institution, facility, or program for the 2543
treatment of mental retardation be continued during the pendency 2544
of the trial on the applicable offenses described in division 2545
(C)(1) of section 2945.38 of the Revised Code. 2546

(ii) If the trial court determines that the defendant no 2547
longer is a mentally ill person subject to ~~hospitalization by~~ 2548
court order or a mentally retarded person subject to 2549
institutionalization by court order, the trial court shall order 2550
that the defendant's commitment to the department of mental health 2551
and addiction services or to an institution, facility, or program 2552
for the treatment of mental retardation shall not be continued 2553
during the pendency of the trial on the applicable offenses 2554
described in division (C)(1) of section 2945.38 of the Revised 2555
Code. This order shall be a final termination of the commitment 2556
for purposes of division (J)(1)(c) of this section. 2557

(b) If, at the conclusion of the hearing described in 2558
division (J)(2)(a) of this section, the trial court determines 2559
that the defendant remains incapable of understanding the nature 2560
and objective of the proceedings against the defendant or of 2561
assisting in the defendant's defense, the trial court shall order 2562
that the defendant continues to be incompetent to stand trial, 2563
that the defendant's commitment to the department of mental health 2564

and addiction services or to an institution, facility, or program 2565
for the treatment of mental retardation shall be continued, and 2566
that the defendant remains subject to the jurisdiction of the 2567
trial court pursuant to that commitment, and to the provisions of 2568
this section, until the final termination of the commitment as 2569
described in division (J)(1) of this section. 2570

Sec. 2967.22. Whenever it is brought to the attention of the 2571
adult parole authority or a department of probation that a 2572
parolee, person under a community control sanction, person under 2573
transitional control, or releasee appears to be a mentally ill 2574
person subject to ~~hospitalization~~ by court order, as defined in 2575
section 5122.01 of the Revised Code, or a mentally retarded person 2576
subject to institutionalization by court order, as defined in 2577
section 5123.01 of the Revised Code, the parole or probation 2578
officer, subject to the approval of the chief of the adult parole 2579
authority, the designee of the chief of the adult parole 2580
authority, or the chief probation officer, may file an affidavit 2581
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 2582
person under a community control sanction, or releasee who is 2583
involuntarily detained under Chapter 5122. or 5123. of the Revised 2584
Code shall receive credit against the period of parole or 2585
community control or the term of post-release control for the 2586
period of involuntary detention. 2587

If a parolee, person under a community control sanction, 2588
person under transitional control, or releasee escapes from an 2589
institution or facility within the department of mental health and 2590
addiction services or the department of developmental 2591
disabilities, the superintendent of the institution immediately 2592
shall notify the chief of the adult parole authority or the chief 2593
probation officer. Notwithstanding the provisions of section 2594
5122.26 of the Revised Code, the procedure for the apprehension, 2595
detention, and return of the parolee, person under a community 2596

control sanction, person under transitional control, or releasee 2597
is the same as that provided for the apprehension, detention, and 2598
return of persons who escape from institutions operated by the 2599
department of rehabilitation and correction. If the escaped 2600
parolee, person under transitional control, or releasee is not 2601
apprehended and returned to the custody of the department of 2602
mental health and addiction services or the department of 2603
developmental disabilities within ninety days after the escape, 2604
the parolee, person under transitional control, or releasee shall 2605
be discharged from the custody of the department of mental health 2606
and addiction services or the department of developmental 2607
disabilities and returned to the custody of the department of 2608
rehabilitation and correction. If the escaped person under a 2609
community control sanction is not apprehended and returned to the 2610
custody of the department of mental health and addiction services 2611
or the department of developmental disabilities within ninety days 2612
after the escape, the person under a community control sanction 2613
shall be discharged from the custody of the department of mental 2614
health and addiction services or the department of developmental 2615
disabilities and returned to the custody of the court that 2616
sentenced that person. 2617

Sec. 5119.311. The department of mental health and addiction 2618
services may examine into, with or without expert assistance, the 2619
question of the mental and physical condition of any person 2620
committed to or involuntarily confined in any hospital for the 2621
mentally ill, or restrained of liberty at any place within this 2622
state by reason of alleged mental illness and may order and compel 2623
the discharge of any such person who is not a mentally ill person 2624
subject to ~~hospitalization by~~ court order as defined in division 2625
(B) of section 5122.01 of the Revised Code and direct what 2626
disposition shall be made of the person. The order of discharge 2627
shall be signed by the director of mental health and addiction 2628

services. Upon receipt of such order by the superintendent or 2629
other person in charge of the building in which the person named 2630
in such order is confined, such person shall forthwith be 2631
discharged or otherwise disposed of according to the terms of said 2632
order, and any further or other detention of such person is 2633
unlawful. No such order shall be made in favor of any person 2634
committed and held for trial on a criminal charge, in confinement 2635
by an order of a judge or court made in a criminal proceeding, or 2636
in any case unless notice is given to the superintendent or other 2637
person having charge of the building in which the alleged mentally 2638
ill person is detained, and a reasonable opportunity is allowed 2639
the person in charge to justify further detention of the person 2640
confined. 2641

Sec. 5120.17. (A) As used in this section: 2642

(1) "Mental illness" means a substantial disorder of thought, 2643
mood, perception, orientation, or memory that grossly impairs 2644
judgment, behavior, capacity to recognize reality, or ability to 2645
meet the ordinary demands of life. 2646

(2) "Mentally ill person subject to hospitalization" means a 2647
mentally ill person to whom any of the following applies because 2648
of the person's mental illness: 2649

(a) The person represents a substantial risk of physical harm 2650
to the person as manifested by evidence of threats of, or attempts 2651
at, suicide or serious self-inflicted bodily harm. 2652

(b) The person represents a substantial risk of physical harm 2653
to others as manifested by evidence of recent homicidal or other 2654
violent behavior, evidence of recent threats that place another in 2655
reasonable fear of violent behavior and serious physical harm, or 2656
other evidence of present dangerousness. 2657

(c) The person represents a substantial and immediate risk of 2658

serious physical impairment or injury to the person as manifested 2659
by evidence that the person is unable to provide for and is not 2660
providing for the person's basic physical needs because of the 2661
person's mental illness and that appropriate provision for those 2662
needs cannot be made immediately available in the correctional 2663
institution in which the inmate is currently housed. 2664

(d) The person would benefit from treatment in a hospital for 2665
the person's mental illness and is in need of treatment in a 2666
hospital as manifested by evidence of behavior that creates a 2667
grave and imminent risk to substantial rights of others or the 2668
person. 2669

(3) "Psychiatric hospital" means all or part of a facility 2670
that is operated and managed by the department of mental health 2671
and addiction services to provide psychiatric hospitalization 2672
services in accordance with the requirements of this section 2673
pursuant to an agreement between the directors of rehabilitation 2674
and correction and mental health and addiction services or, is 2675
licensed by the department of mental health and addiction services 2676
pursuant to section 5119.33 of the Revised Code as a psychiatric 2677
hospital and is accredited by a health care accrediting 2678
organization approved by the department of mental health and 2679
addiction services and the psychiatric hospital is any of the 2680
following: 2681

(a) Operated and managed by the department of rehabilitation 2682
and correction within a facility that is operated by the 2683
department of rehabilitation and correction; 2684

(b) Operated and managed by a contractor for the department 2685
of rehabilitation and correction within a facility that is 2686
operated by the department of rehabilitation and correction; 2687

(c) Operated and managed in the community by an entity that 2688
has contracted with the department of rehabilitation and 2689

correction to provide psychiatric hospitalization services in 2690
accordance with the requirements of this section. 2691

(4) "Inmate patient" means an inmate who is admitted to a 2692
psychiatric hospital. 2693

(5) "Admitted" to a psychiatric hospital means being accepted 2694
for and staying at least one night at the psychiatric hospital. 2695

(6) "Treatment plan" means a written statement of reasonable 2696
objectives and goals for an inmate patient that is based on the 2697
needs of the inmate patient and that is established by the 2698
treatment team, with the active participation of the inmate 2699
patient and with documentation of that participation. "Treatment 2700
plan" includes all of the following: 2701

(a) The specific criteria to be used in evaluating progress 2702
toward achieving the objectives and goals; 2703

(b) The services to be provided to the inmate patient during 2704
the inmate patient's hospitalization; 2705

(c) The services to be provided to the inmate patient after 2706
discharge from the hospital, including, but not limited to, 2707
housing and mental health services provided at the state 2708
correctional institution to which the inmate patient returns after 2709
discharge or community mental health services. 2710

(7) "Mentally retarded person subject to institutionalization 2711
by court order" has the same meaning as in section 5123.01 of the 2712
Revised Code. 2713

(8) "Emergency transfer" means the transfer of a mentally ill 2714
inmate to a psychiatric hospital when the inmate presents an 2715
immediate danger to self or others and requires hospital-level 2716
care. 2717

(9) "Uncontested transfer" means the transfer of a mentally 2718
ill inmate to a psychiatric hospital when the inmate has the 2719

mental capacity to, and has waived, the hearing required by 2720
division (B) of this section. 2721

(10)(a) "Independent decision-maker" means a person who is 2722
employed or retained by the department of rehabilitation and 2723
correction and is appointed by the chief or chief clinical officer 2724
of mental health services as a hospitalization hearing officer to 2725
conduct due process hearings. 2726

(b) An independent decision-maker who presides over any 2727
hearing or issues any order pursuant to this section shall be a 2728
psychiatrist, psychologist, or attorney, shall not be specifically 2729
associated with the institution in which the inmate who is the 2730
subject of the hearing or order resides at the time of the hearing 2731
or order, and previously shall not have had any treatment 2732
relationship with nor have represented in any legal proceeding the 2733
inmate who is the subject of the order. 2734

(B)(1) Except as provided in division (C) of this section, if 2735
the warden of a state correctional institution or the warden's 2736
designee believes that an inmate should be transferred from the 2737
institution to a psychiatric hospital, the department shall hold a 2738
hearing to determine whether the inmate is a mentally ill person 2739
subject to hospitalization. The department shall conduct the 2740
hearing at the state correctional institution in which the inmate 2741
is confined, and the department shall provide qualified 2742
independent assistance to the inmate for the hearing. An 2743
independent decision-maker provided by the department shall 2744
preside at the hearing and determine whether the inmate is a 2745
mentally ill person subject to hospitalization. 2746

(2) Except as provided in division (C) of this section, prior 2747
to the hearing held pursuant to division (B)(1) of this section, 2748
the warden or the warden's designee shall give written notice to 2749
the inmate that the department is considering transferring the 2750
inmate to a psychiatric hospital, that it will hold a hearing on 2751

the proposed transfer at which the inmate may be present, that at 2752
the hearing the inmate has the rights described in division (B)(3) 2753
of this section, and that the department will provide qualified 2754
independent assistance to the inmate with respect to the hearing. 2755
The department shall not hold the hearing until the inmate has 2756
received written notice of the proposed transfer and has had 2757
sufficient time to consult with the person appointed by the 2758
department to provide assistance to the inmate and to prepare for 2759
a presentation at the hearing. 2760

(3) At the hearing held pursuant to division (B)(1) of this 2761
section, the department shall disclose to the inmate the evidence 2762
that it relies upon for the transfer and shall give the inmate an 2763
opportunity to be heard. Unless the independent decision-maker 2764
finds good cause for not permitting it, the inmate may present 2765
documentary evidence and the testimony of witnesses at the hearing 2766
and may confront and cross-examine witnesses called by the 2767
department. 2768

(4) If the independent decision-maker does not find clear and 2769
convincing evidence that the inmate is a mentally ill person 2770
subject to hospitalization, the department shall not transfer the 2771
inmate to a psychiatric hospital but shall continue to confine the 2772
inmate in the same state correctional institution or in another 2773
state correctional institution that the department considers 2774
appropriate. If the independent decision-maker finds clear and 2775
convincing evidence that the inmate is a mentally ill person 2776
subject to hospitalization, the decision-maker shall order that 2777
the inmate be transported to a psychiatric hospital for 2778
observation and treatment for a period of not longer than thirty 2779
days. After the hearing, the independent decision-maker shall 2780
submit to the department a written decision that states one of the 2781
findings described in division (B)(4) of this section, the 2782
evidence that the decision-maker relied on in reaching that 2783

conclusion, and, if the decision is that the inmate should be transferred, the reasons for the transfer.

(C)(1) The department may transfer an inmate to a psychiatric hospital under an emergency transfer order if the chief clinical officer of mental health services of the department or that officer's designee and either a psychiatrist employed or retained by the department or, in the absence of a psychiatrist, a psychologist employed or retained by the department determines that the inmate is mentally ill, presents an immediate danger to self or others, and requires hospital-level care.

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

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

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

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

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

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

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

(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department

shall hold subsequent hearings pursuant to division (F) of this 2814
section at the same intervals as required for inmate patients who 2815
are transported to a psychiatric hospital under division (B)(4) of 2816
this section. 2817

(5) After an uncontested transfer under division (C)(2) of 2818
this section, the inmate may withdraw consent to the transfer in 2819
writing at any time. Upon the inmate's withdrawal of consent, the 2820
hospital shall discharge the inmate, or, within five working days, 2821
the department shall hold a hearing for continued hospitalization. 2822
The department shall hold subsequent hearings pursuant to division 2823
(F) of this section at the same time intervals as required for 2824
inmate patients who are transported to a psychiatric hospital 2825
under division (B)(4) of this section. 2826

(D)(1) If an independent decision-maker, pursuant to division 2827
(B)(4) of this section, orders an inmate transported to a 2828
psychiatric hospital or if an inmate is transferred pursuant to 2829
division (C)(1) or (2) of this section, the staff of the 2830
psychiatric hospital shall examine the inmate patient when 2831
admitted to the psychiatric hospital as soon as practicable after 2832
the inmate patient arrives at the hospital and no later than 2833
twenty-four hours after the time of arrival. The attending 2834
physician responsible for the inmate patient's care shall give the 2835
inmate patient all information necessary to enable the patient to 2836
give a fully informed, intelligent, and knowing consent to the 2837
treatment the inmate patient will receive in the hospital. The 2838
attending physician shall tell the inmate patient the expected 2839
physical and medical consequences of any proposed treatment and 2840
shall give the inmate patient the opportunity to consult with 2841
another psychiatrist at the hospital and with the inmate advisor. 2842

(2) No inmate patient who is transported or transferred 2843
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 2844
psychiatric hospital within a facility that is operated by the 2845

department of rehabilitation and correction shall be subjected to	2846
any of the following procedures:	2847
(a) Convulsive therapy;	2848
(b) Major aversive interventions;	2849
(c) Any unusually hazardous treatment procedures;	2850
(d) Psychosurgery.	2851
(E) The department of rehabilitation and correction shall	2852
ensure that an inmate patient hospitalized pursuant to this	2853
section receives or has all of the following:	2854
(1) Receives sufficient professional care within twenty days	2855
of admission to ensure that an evaluation of the inmate patient's	2856
current status, differential diagnosis, probable prognosis, and	2857
description of the current treatment plan have been formulated and	2858
are stated on the inmate patient's official chart;	2859
(2) Has a written treatment plan consistent with the	2860
evaluation, diagnosis, prognosis, and goals of treatment;	2861
(3) Receives treatment consistent with the treatment plan;	2862
(4) Receives periodic reevaluations of the treatment plan by	2863
the professional staff at intervals not to exceed thirty days;	2864
(5) Is provided with adequate medical treatment for physical	2865
disease or injury;	2866
(6) Receives humane care and treatment, including, without	2867
being limited to, the following:	2868
(a) Access to the facilities and personnel required by the	2869
treatment plan;	2870
(b) A humane psychological and physical environment;	2871
(c) The right to obtain current information concerning the	2872
treatment program, the expected outcomes of treatment, and the	2873
expectations for the inmate patient's participation in the	2874

treatment program in terms that the inmate patient reasonably can understand; 2875
2876

(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital; 2877
2878
2879

(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation; 2880
2881

(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department. 2882
2883
2884

(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C)(2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the 2885
2886
2887
2888
2889
2890
2891
2892
2893
2894
2895
2896
2897
2898
2899
2900
2901
2902
2903
2904
2905
2906

inmate has the capacity to make a reasoned choice and executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

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

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

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

(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison term, the director of rehabilitation and correction or the

director's designee, at least fourteen days before the expiration 2938
date, may file an affidavit under section 5122.11 or 5123.71 of 2939
the Revised Code with the probate court in the county where the 2940
psychiatric hospital is located or the probate court in the county 2941
where the inmate will reside, alleging that the inmate patient is 2942
a mentally ill person subject to ~~hospitalization~~ by court order or 2943
a mentally retarded person subject to institutionalization by 2944
court order, whichever is applicable. The proceedings in the 2945
probate court shall be conducted pursuant to Chapter 5122. or 2946
5123. of the Revised Code except as modified by this division. 2947

Upon the request of the inmate patient, the probate court 2948
shall grant the inmate patient an initial hearing under section 2949
5122.141 of the Revised Code or a probable cause hearing under 2950
section 5123.75 of the Revised Code before the expiration of the 2951
stated prison term. After holding a full hearing, the probate 2952
court shall make a disposition authorized by section 5122.15 or 2953
5123.76 of the Revised Code before the date of the expiration of 2954
the stated prison term. No inmate patient shall be held in the 2955
custody of the department of rehabilitation and correction past 2956
the date of the expiration of the inmate patient's stated prison 2957
term. 2958

(J) The department of rehabilitation and correction shall set 2959
standards for treatment provided to inmate patients. 2960

(K) A certificate, application, record, or report that is 2961
made in compliance with this section and that directly or 2962
indirectly identifies an inmate or former inmate whose 2963
hospitalization has been sought under this section is 2964
confidential. No person shall disclose the contents of any 2965
certificate, application, record, or report of that nature or any 2966
other psychiatric or medical record or report regarding a mentally 2967
ill inmate unless one of the following applies: 2968

(1) The person identified, or the person's legal guardian, if 2969

any, consents to disclosure, and the chief clinical officer or 2970
designee of mental health services of the department of 2971
rehabilitation and correction determines that disclosure is in the 2972
best interests of the person. 2973

(2) Disclosure is required by a court order signed by a 2974
judge. 2975

(3) An inmate patient seeks access to the inmate patient's 2976
own psychiatric and medical records, unless access is specifically 2977
restricted in the treatment plan for clear treatment reasons. 2978

(4) Hospitals and other institutions and facilities within 2979
the department of rehabilitation and correction may exchange 2980
psychiatric records and other pertinent information with other 2981
hospitals, institutions, and facilities of the department, but the 2982
information that may be released about an inmate patient is 2983
limited to medication history, physical health status and history, 2984
summary of course of treatment in the hospital, summary of 2985
treatment needs, and a discharge summary, if any. 2986

(5) An inmate patient's family member who is involved in 2987
planning, providing, and monitoring services to the inmate patient 2988
may receive medication information, a summary of the inmate 2989
patient's diagnosis and prognosis, and a list of the services and 2990
personnel available to assist the inmate patient and family if the 2991
attending physician determines that disclosure would be in the 2992
best interest of the inmate patient. No disclosure shall be made 2993
under this division unless the inmate patient is notified of the 2994
possible disclosure, receives the information to be disclosed, and 2995
does not object to the disclosure. 2996

(6) The department of rehabilitation and correction may 2997
exchange psychiatric hospitalization records, other mental health 2998
treatment records, and other pertinent information with county 2999
sheriffs' offices, hospitals, institutions, and facilities of the 3000

department of mental health and addiction services and with 3001
community mental health services providers and boards of alcohol, 3002
drug addiction, and mental health services with which the 3003
department of mental health and addiction services has a current 3004
agreement for patient care or services to ensure continuity of 3005
care. Disclosure under this division is limited to records 3006
regarding a mentally ill inmate's medication history, physical 3007
health status and history, summary of course of treatment, summary 3008
of treatment needs, and a discharge summary, if any. No office, 3009
department, agency, provider, or board shall disclose the records 3010
and other information unless one of the following applies: 3011

(a) The mentally ill inmate is notified of the possible 3012
disclosure and consents to the disclosure. 3013

(b) The mentally ill inmate is notified of the possible 3014
disclosure, an attempt to gain the consent of the inmate is made, 3015
and the office, department, agency, or board documents the attempt 3016
to gain consent, the inmate's objections, if any, and the reasons 3017
for disclosure in spite of the inmate's objections. 3018

(7) Information may be disclosed to staff members designated 3019
by the director of rehabilitation and correction for the purpose 3020
of evaluating the quality, effectiveness, and efficiency of 3021
services and determining if the services meet minimum standards. 3022

The name of an inmate patient shall not be retained with the 3023
information obtained during the evaluations. 3024

(L) The director of rehabilitation and correction may adopt 3025
rules setting forth guidelines for the procedures required under 3026
divisions (B), (C)(1), and (C)(2) of this section. 3027

Sec. 5122.01. As used in this chapter and Chapter 5119. of 3028
the Revised Code: 3029

(A) "Mental illness" means a substantial disorder of thought, 3030

mood, perception, orientation, or memory that grossly impairs 3031
judgment, behavior, capacity to recognize reality, or ability to 3032
meet the ordinary demands of life. 3033

(B) "Mentally ill person subject to ~~hospitalization by~~ court 3034
order" means a mentally ill person who, because of the person's 3035
illness: 3036

(1) Represents a substantial risk of physical harm to self as 3037
manifested by evidence of threats of, or attempts at, suicide or 3038
serious self-inflicted bodily harm; 3039

(2) Represents a substantial risk of physical harm to others 3040
as manifested by evidence of recent homicidal or other violent 3041
behavior, evidence of recent threats that place another in 3042
reasonable fear of violent behavior and serious physical harm, or 3043
other evidence of present dangerousness; 3044

(3) Represents a substantial and immediate risk of serious 3045
physical impairment or injury to self as manifested by evidence 3046
that the person is unable to provide for and is not providing for 3047
the person's basic physical needs because of the person's mental 3048
illness and that appropriate provision for those needs cannot be 3049
made immediately available in the community; or 3050

(4) Would benefit from treatment in a hospital for the 3051
person's mental illness and is in need of such treatment as 3052
manifested by evidence of behavior that creates a grave and 3053
imminent risk to substantial rights of others or the person; 3054

(5)(a) Would benefit from treatment as manifested by evidence 3055
of behavior that indicates all of the following: 3056

(i) The person is unlikely to survive safely in the community 3057
without supervision, based on a clinical determination. 3058

(ii) The person has a history of lack of compliance with 3059
treatment for mental illness and one of the following applies: 3060

(I) At least twice within the thirty-six months prior to the 3061
filing of an affidavit seeking court-ordered treatment of the 3062
person under section 5122.111 of the Revised Code, the lack of 3063
compliance has been a significant factor in necessitating 3064
hospitalization in a hospital or receipt of services in a forensic 3065
or other mental health unit of a correctional facility, provided 3066
that the thirty-six-month period shall be extended by the length 3067
of any hospitalization or incarceration of the person that 3068
occurred within the thirty-six-month period. 3069

(II) Within the forty-eight months prior to the filing of an 3070
affidavit seeking court-ordered treatment of the person under 3071
section 5122.111 of the Revised Code, the lack of compliance 3072
resulted in one or more acts of serious violent behavior toward 3073
self or others or threats of, or attempts at, serious physical 3074
harm to self or others, provided that the forty-eight-month period 3075
shall be extended by the length of any hospitalization or 3076
incarceration of the person that occurred within the 3077
forty-eight-month period. 3078

(iii) The person, as a result of the person's mental illness, 3079
is unlikely to voluntarily participate in necessary treatment. 3080

(iv) In view of the person's treatment history and current 3081
behavior, the person is in need of treatment in order to prevent a 3082
relapse or deterioration that would be likely to result in 3083
substantial risk of serious harm to the person or others. 3084

(b) An individual who meets only the criteria described in 3085
division (B)(5)(a) of this section is not subject to 3086
hospitalization. 3087

(C)(1) "Patient" means, subject to division (C)(2) of this 3088
section, a person who is admitted either voluntarily or 3089
involuntarily to a hospital or other place under section 2945.39, 3090
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 3091

finding of not guilty by reason of insanity or incompetence to 3092
stand trial or under this chapter, who is under observation or 3093
receiving treatment in such place. 3094

(2) "Patient" does not include a person admitted to a 3095
hospital or other place under section 2945.39, 2945.40, 2945.401, 3096
or 2945.402 of the Revised Code to the extent that the reference 3097
in this chapter to patient, or the context in which the reference 3098
occurs, is in conflict with any provision of sections 2945.37 to 3099
2945.402 of the Revised Code. 3100

(D) "Licensed physician" means a person licensed under the 3101
laws of this state to practice medicine or a medical officer of 3102
the government of the United States while in this state in the 3103
performance of the person's official duties. 3104

(E) "Psychiatrist" means a licensed physician who has 3105
satisfactorily completed a residency training program in 3106
psychiatry, as approved by the residency review committee of the 3107
American medical association, the committee on post-graduate 3108
education of the American osteopathic association, or the American 3109
osteopathic board of neurology and psychiatry, or who on July 1, 3110
1989, has been recognized as a psychiatrist by the Ohio state 3111
medical association or the Ohio osteopathic association on the 3112
basis of formal training and five or more years of medical 3113
practice limited to psychiatry. 3114

(F) "Hospital" means a hospital or inpatient unit licensed by 3115
the department of mental health and addiction services under 3116
section 5119.33 of the Revised Code, and any institution, 3117
hospital, or other place established, controlled, or supervised by 3118
the department under Chapter 5119. of the Revised Code. 3119

(G) "Public hospital" means a facility that is tax-supported 3120
and under the jurisdiction of the department of mental health and 3121
addiction services. 3122

(H) "Community mental health services provider" means an 3123
agency, association, corporation, individual, or program that 3124
provides community mental health services that are certified by 3125
the director of mental health and addiction services under section 3126
5119.36 of the Revised Code. 3127

(I) "Licensed clinical psychologist" means a person who holds 3128
a current valid psychologist license issued under section 4732.12 3129
of the Revised Code, and in addition, meets the educational 3130
requirements set forth in division (B) of section 4732.10 of the 3131
Revised Code and has a minimum of two years' full-time 3132
professional experience, or the equivalent as determined by rule 3133
of the state board of psychology, at least one year of which shall 3134
be a predoctoral internship, in clinical psychological work in a 3135
public or private hospital or clinic or in private practice, 3136
diagnosing and treating problems of mental illness or mental 3137
retardation under the supervision of a psychologist who is 3138
licensed or who holds a diploma issued by the American board of 3139
professional psychology, or whose qualifications are substantially 3140
similar to those required for licensure by the state board of 3141
psychology when the supervision has occurred prior to enactment of 3142
laws governing the practice of psychology. 3143

(J) "Health officer" means any public health physician; 3144
public health nurse; or other person authorized by or designated 3145
by a city health district; a general health district; or a board 3146
of alcohol, drug addiction, and mental health services to perform 3147
the duties of a health officer under this chapter. 3148

(K) "Chief clinical officer" means the medical director of a 3149
hospital, or a community mental health services provider, or a 3150
board of alcohol, drug addiction, and mental health services, or, 3151
if there is no medical director, the licensed physician 3152
responsible for the treatment a hospital or community mental 3153
health services provider provides. The chief clinical officer may 3154

delegate to the attending physician responsible for a patient's 3155
care the duties imposed on the chief clinical officer by this 3156
chapter. Within a community mental health services provider, the 3157
chief clinical officer shall be designated by the governing body 3158
of the services provider and shall be a licensed physician or 3159
licensed clinical psychologist who supervises diagnostic and 3160
treatment services. A licensed physician or licensed clinical 3161
psychologist designated by the chief clinical officer may perform 3162
the duties and accept the responsibilities of the chief clinical 3163
officer in the chief clinical officer's absence. 3164

(L) "Working day" or "court day" means Monday, Tuesday, 3165
Wednesday, Thursday, and Friday, except when such day is a 3166
holiday. 3167

(M) "Indigent" means unable without deprivation of 3168
satisfaction of basic needs to provide for the payment of an 3169
attorney and other necessary expenses of legal representation, 3170
including expert testimony. 3171

(N) "Respondent" means the person whose detention, 3172
commitment, hospitalization, continued hospitalization or 3173
commitment, or discharge is being sought in any proceeding under 3174
this chapter. 3175

(O) "Ohio protection and advocacy system" has the same 3176
meaning as in section 5123.60 of the Revised Code. 3177

(P) "Independent expert evaluation" means an evaluation 3178
conducted by a licensed clinical psychologist, psychiatrist, or 3179
licensed physician who has been selected by the respondent or the 3180
respondent's counsel and who consents to conducting the 3181
evaluation. 3182

(Q) "Court" means the probate division of the court of common 3183
pleas. 3184

(R) "Expunge" means: 3185

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;	3186 3187
(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;	3188 3189 3190
(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;	3191 3192 3193
(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.	3194 3195 3196
(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:	3197 3198
(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;	3199 3200 3201 3202 3203
(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.	3204 3205 3206
When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health and addiction services for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.	3207 3208 3209 3210 3211 3212 3213 3214
(T) "Admission" to a hospital or other place means that a	3215

patient is accepted for and stays at least one night at the 3216
hospital or other place. 3217

(U) "Prosecutor" means the prosecuting attorney, village 3218
solicitor, city director of law, or similar chief legal officer 3219
who prosecuted a criminal case in which a person was found not 3220
guilty by reason of insanity, who would have had the authority to 3221
prosecute a criminal case against a person if the person had not 3222
been found incompetent to stand trial, or who prosecuted a case in 3223
which a person was found guilty. 3224

(V)(1) "Treatment plan" means a written statement of 3225
reasonable objectives and goals for an individual established by 3226
the treatment team, with specific criteria to evaluate progress 3227
towards achieving those objectives. ~~The~~ 3228

(2) The active participation of the patient in establishing 3229
the objectives and goals shall be documented. The treatment plan 3230
shall be based on patient needs and include services to be 3231
provided to the patient while the patient is hospitalized ~~and,~~ 3232
after the patient is discharged, or in an outpatient setting. The 3233
treatment plan shall address services to be provided ~~upon~~ 3234
discharge, including. In the establishment of the treatment plan, 3235
consideration should be given to the availability of services, 3236
which may include but are not limited to housing, financial, and 3237
vocational services all of the following: 3238

(a) Community psychiatric supportive treatment; 3239

(b) Assertive community treatment; 3240

(c) Medications; 3241

(d) Individual or group therapy; 3242

(e) Peer support services; 3243

(f) Financial services; 3244

(g) Housing or supervised living services; 3245

<u>(h) Alcohol or substance abuse treatment;</u>	3246
<u>(i) Any other services prescribed to treat the patient's mental illness and to either assist the patient in living and functioning in the community or to help prevent a relapse or a deterioration of the patient's current condition.</u>	3247 3248 3249 3250
<u>(3) If the person subject to the treatment plan has executed an advanced directive for mental health treatment, the treatment team shall consider any directions included in such advanced directive in developing the treatment plan.</u>	3251 3252 3253 3254
(W) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	3255 3256
(X) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	3257 3258
<u>(Y) "Local correctional facility" has the same meaning as in section 2903.13 of the Revised Code.</u>	3259 3260
Sec. 5122.03. A patient admitted under section 5122.02 of the Revised Code who requests release in writing, or whose release is requested in writing by the patient's counsel, legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except that when:	3261 3262 3263 3264 3265
(A) The patient was admitted on the patient's own application and the request for release is made by a person other than the patient, release may be conditional upon the agreement of the patient; or	3266 3267 3268 3269
(B) The chief clinical officer of the hospital, within three court days from the receipt of the request for release, files or causes to be filed with the court of the county where the patient is hospitalized or of the county where the patient is a resident, an affidavit under section 5122.11 of the Revised Code. Release may be postponed until the hearing held under section 5122.141 of	3270 3271 3272 3273 3274 3275

the Revised Code. A telephone communication within three court 3276
days from the receipt of the request for release from the chief 3277
clinical officer to the court, indicating that the required 3278
affidavit has been mailed, is sufficient compliance with the time 3279
limit for filing such affidavit. 3280

Unless the patient is released within three days from the 3281
receipt of the request by the chief clinical officer, the request 3282
shall serve as a request for an initial hearing under section 3283
5122.141 of the Revised Code. If the court finds that the patient 3284
is a mentally ill person subject to ~~hospitalization by~~ court 3285
order, all provisions of this chapter with respect to involuntary 3286
hospitalization apply to such person. 3287

Judicial proceedings for hospitalization shall not be 3288
commenced with respect to a voluntary patient except pursuant to 3289
this section. 3290

Sections 5121.30 to 5121.56 of the Revised Code apply to 3291
persons received in a hospital operated by the department of 3292
mental health and addiction services on a voluntary application. 3293

The chief clinical officer of the hospital shall provide 3294
reasonable means and arrangements for informing patients of their 3295
rights to release as provided in this section and for assisting 3296
them in making and presenting requests for release or for a 3297
hearing under section 5122.141 of the Revised Code. 3298

Before a patient is released from a public hospital, the 3299
chief clinical officer shall, when possible, notify the board of 3300
the patient's county of residence of the patient's pending release 3301
after the chief clinical officer has informed the patient that the 3302
board will be so notified. 3303

Sec. 5122.05. (A) The chief clinical officer of a hospital 3304
may, and the chief clinical officer of a public hospital in all 3305

cases of psychiatric medical emergencies, shall receive for 3306
observation, diagnosis, care, and treatment any person whose 3307
admission is applied for under any of the following procedures: 3308

(1) Emergency procedure, as provided in section 5122.10 of 3309
the Revised Code; 3310

(2) Judicial procedure as provided in sections 2945.38, 3311
2945.39, 2945.40, 2945.401, 2945.402, and 5122.11 to 5122.15 of 3312
the Revised Code. 3313

Upon application for such admission, the chief clinical 3314
officer of a hospital immediately shall notify the board of the 3315
patient's county of residence. To assist the hospital in 3316
determining whether the patient is subject to involuntary 3317
hospitalization and whether alternative services are available, 3318
the board or an agency the board designates promptly shall assess 3319
the patient unless the board or agency already has performed such 3320
assessment, or unless the commitment is pursuant to section 3321
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3322
Code. 3323

(B) No person who is being treated by spiritual means through 3324
prayer alone, in accordance with a recognized religious method of 3325
healing, may be involuntarily committed unless the court has 3326
determined that the person represents a substantial risk of 3327
impairment or injury to self or others; 3328

(C) Any person who is involuntarily detained in a hospital or 3329
otherwise is in custody under this chapter, immediately upon being 3330
taken into custody, shall be informed and provided with a written 3331
statement that the person may do any of the following: 3332

(1) Immediately make a reasonable number of telephone calls 3333
or use other reasonable means to contact an attorney, a licensed 3334
physician, or a licensed clinical psychologist, to contact any 3335
other person or persons to secure representation by counsel, or to 3336

obtain medical or psychological assistance, and be provided 3337
assistance in making calls if the assistance is needed and 3338
requested; 3339

(2) Retain counsel and have independent expert evaluation of 3340
the person's mental condition and, if the person is unable to 3341
obtain an attorney or independent expert evaluation, be 3342
represented by court-appointed counsel or have independent expert 3343
evaluation of the person's mental condition, or both, at public 3344
expense if the person is indigent; 3345

(3) Have a hearing to determine whether or not the person is 3346
a mentally ill person subject to ~~hospitalization by~~ court order. 3347

Sec. 5122.10. Any psychiatrist, licensed clinical 3348
psychologist, licensed physician, health officer, parole officer, 3349
police officer, or sheriff may take a person into custody, or the 3350
chief of the adult parole authority or a parole or probation 3351
officer with the approval of the chief of the authority may take a 3352
parolee, an offender under a community control sanction or a 3353
post-release control sanction, or an offender under transitional 3354
control into custody and may immediately transport the parolee, 3355
offender on community control or post-release control, or offender 3356
under transitional control to a hospital or, notwithstanding 3357
section 5119.33 of the Revised Code, to a general hospital not 3358
licensed by the department of mental health and addiction services 3359
where the parolee, offender on community control or post-release 3360
control, or offender under transitional control may be held for 3361
the period prescribed in this section, if the psychiatrist, 3362
licensed clinical psychologist, licensed physician, health 3363
officer, parole officer, police officer, or sheriff has reason to 3364
believe that the person is a mentally ill person subject to 3365
~~hospitalization by~~ court order under division (B) of section 3366
5122.01 of the Revised Code, and represents a substantial risk of 3367

physical harm to self or others if allowed to remain at liberty 3368
pending examination. 3369

A written statement shall be given to such hospital by the 3370
transporting psychiatrist, licensed clinical psychologist, 3371
licensed physician, health officer, parole officer, police 3372
officer, chief of the adult parole authority, parole or probation 3373
officer, or sheriff stating the circumstances under which such 3374
person was taken into custody and the reasons for the 3375
psychiatrist's, licensed clinical psychologist's, licensed 3376
physician's, health officer's, parole officer's, police officer's, 3377
chief of the adult parole authority's, parole or probation 3378
officer's, or sheriff's belief. This statement shall be made 3379
available to the respondent or the respondent's attorney upon 3380
request of either. 3381

Every reasonable and appropriate effort shall be made to take 3382
persons into custody in the least conspicuous manner possible. A 3383
person taking the respondent into custody pursuant to this section 3384
shall explain to the respondent: the name and professional 3385
designation and affiliation of the person taking the respondent 3386
into custody; that the custody-taking is not a criminal arrest; 3387
and that the person is being taken for examination by mental 3388
health professionals at a specified mental health facility 3389
identified by name. 3390

If a person taken into custody under this section is 3391
transported to a general hospital, the general hospital may admit 3392
the person, or provide care and treatment for the person, or both, 3393
notwithstanding section 5119.33 of the Revised Code, but by the 3394
end of twenty-four hours after arrival at the general hospital, 3395
the person shall be transferred to a hospital as defined in 3396
section 5122.01 of the Revised Code. 3397

A person transported or transferred to a hospital or 3398

community mental health services provider under this section shall 3399
be examined by the staff of the hospital or services provider 3400
within twenty-four hours after arrival at the hospital or services 3401
provider. If to conduct the examination requires that the person 3402
remain overnight, the hospital or services provider shall admit 3403
the person in an unclassified status until making a disposition 3404
under this section. After the examination, if the chief clinical 3405
officer of the hospital or services provider believes that the 3406
person is not a mentally ill person subject to ~~hospitalization by~~ 3407
court order, the chief clinical officer shall release or discharge 3408
the person immediately unless a court has issued a temporary order 3409
of detention applicable to the person under section 5122.11 of the 3410
Revised Code. After the examination, if the chief clinical officer 3411
believes that the person is a mentally ill person subject to 3412
~~hospitalization by~~ court order, the chief clinical officer may 3413
detain the person for not more than three court days following the 3414
day of the examination and during such period admit the person as 3415
a voluntary patient under section 5122.02 of the Revised Code or 3416
file an affidavit under section 5122.11 of the Revised Code. If 3417
neither action is taken and a court has not otherwise issued a 3418
temporary order of detention applicable to the person under 3419
section 5122.11 of the Revised Code, the chief clinical officer 3420
shall discharge the person at the end of the three-day period 3421
unless the person has been sentenced to the department of 3422
rehabilitation and correction and has not been released from the 3423
person's sentence, in which case the person shall be returned to 3424
that department. 3425

Sec. 5122.11. Proceedings for ~~the hospitalization of a~~ 3426
mentally ill person subject to court order pursuant to sections 3427
5122.11 to 5122.15 of the Revised Code shall be commenced by the 3428
filing of an affidavit in the manner ~~and form~~ prescribed by the 3429
department of mental health and addiction services and in a form 3430

prescribed in section 5122.111 of the Revised Code, by any person 3431
or persons with the probate court in the county where the mentally 3432
ill person subject to court order resides, either on reliable 3433
information or actual knowledge, whichever is determined to be 3434
proper by the court. This section does not apply to the 3435
hospitalization of a person pursuant to section 2945.39, 2945.40, 3436
2945.401, or 2945.402 of the Revised Code. 3437

The affidavit shall contain an allegation setting forth the 3438
specific category or categories under division (B) of section 3439
5122.01 of the Revised Code upon which the jurisdiction of the 3440
court is based and a statement of alleged facts sufficient to 3441
indicate probable cause to believe that the person is a mentally 3442
ill person subject to ~~hospitalization by~~ court order. The 3443
affidavit may be accompanied, or the court may require that the 3444
affidavit be accompanied, by a certificate of a psychiatrist, or a 3445
certificate signed by a licensed clinical psychologist and a 3446
certificate signed by a licensed physician stating that the person 3447
who issued the certificate has examined the person and is of the 3448
opinion that the person is a mentally ill person subject to 3449
~~hospitalization by~~ court order, or shall be accompanied by a 3450
written statement by the applicant, under oath, that the person 3451
has refused to submit to an examination by a psychiatrist, or by a 3452
licensed clinical psychologist and licensed physician. 3453

Upon receipt of the affidavit, if a judge of the court or a 3454
referee who is an attorney at law appointed by the court has 3455
probable cause to believe that the person named in the affidavit 3456
is a mentally ill person subject to ~~hospitalization by~~ court 3457
order, the judge or referee may issue a temporary order of 3458
detention ordering any health or police officer or sheriff to take 3459
into custody and transport the person to a hospital or other place 3460
designated in section 5122.17 of the Revised Code, or may set the 3461
matter for further hearing. If a temporary order of detention is 3462

issued and the person is transported to a hospital or other 3463
designated place, the court that issued the order shall retain 3464
jurisdiction over the case as it relates to the person's 3465
outpatient treatment, notwithstanding that the hospital or other 3466
designated place to which the person is transported is outside the 3467
territorial jurisdiction of the court. 3468

The person may be observed and treated until the hearing 3469
provided for in section 5122.141 of the Revised Code. If no such 3470
hearing is held, the person may be observed and treated until the 3471
hearing provided for in section 5122.15 of the Revised Code. 3472

Sec. 5122.111. To initiate proceedings for court-ordered 3473
treatment of a person under section 5122.11 of the Revised Code, a 3474
person or persons shall file an affidavit with the probate court 3475
that is identical in form and content to the following: 3476

AFFIDAVIT OF MENTAL ILLNESS 3477

The State of Ohio 3479

..... County, ss. 3480

..... Court 3481

..... 3482
the undersigned, residing at 3483

..... 3484
says, that he/she has information to believe or has actual 3485
knowledge that

(Please specify specific category(ies) below with an X.) 3486
3487

[] Represents a substantial risk of physical harm to self as 3488
manifested by evidence of threats of, or attempts at, suicide or 3489
serious self-inflicted bodily harm; 3490

[] Represents a substantial risk of physical harm to others as 3491
manifested by evidence of recent homicidal or other violent 3492

behavior or evidence of recent threats that place another in 3493
reasonable fear of violent behavior and serious physical harm or 3494
other evidence of present dangerousness; 3495

[] Represents a substantial and immediate risk of serious 3496
physical impairment or injury to self as manifested by evidence of 3497
being unable to provide for and of not providing for basic 3498
physical needs because of mental illness and that appropriate 3499
provision for such needs cannot be made immediately available in 3500
the community; 3501

[] Would benefit from treatment for mental illness and is in need 3502
of such treatment as manifested by evidence of behavior that 3503
creates a grave and imminent risk to substantial rights of others 3504
or the person; or 3505

[] Would benefit from treatment as manifested by evidence of 3506
behavior that indicates all of the following: 3507

(a) The person is unlikely to survive safely in the community 3508
without supervision, based on a clinical determination. 3509

(b) The person has a history of lack of compliance with treatment 3510
for mental illness and one of the following applies: 3511

(i) At least twice within the thirty-six months prior to the 3512
filing of an affidavit seeking court-ordered treatment of the 3513
person under section 5122.111 of the Revised Code, the lack of 3514
compliance has been a significant factor in necessitating 3515
hospitalization in a hospital or receipt of services in a forensic 3516
or other mental health unit of a correctional facility, provided 3517
that the thirty-six-month period shall be extended by the length 3518
of any hospitalization or incarceration of the person that 3519
occurred within the thirty-six-month period. 3520

(ii) Within the forty-eight months prior to the filing of an 3521
affidavit seeking court-ordered treatment of the person under 3522
section 5122.111 of the Revised Code, the lack of compliance 3523

resulted in one or more acts of serious violent behavior toward 3524
self or others or threats of, or attempts at, serious physical 3525
harm to self or others, provided that the forty-eight-month period 3526
shall be extended by the length of any hospitalization or 3527
incarceration of the person that occurred within the 3528
forty-eight-month period. 3529

(c) The person, as a result of mental illness, is unlikely to 3530
voluntarily participate in necessary treatment. 3531

(d) In view of the person's treatment history and current 3532
behavior, the person is in need of treatment in order to prevent a 3533
relapse or deterioration that would be likely to result in 3534
substantial risk of serious harm to the person or others. 3535

..... 3536

(Name of the party filing the affidavit) further says that the 3537
facts supporting this belief are as follows:

..... 3538

..... 3539

..... 3540

..... 3541

..... 3542

..... 3543

These facts being sufficient to indicate probable cause that the 3544
above said person is a mentally ill person subject to 3545
court order. 3546

Name of Patient's Last Physician or Licensed Clinical Psychologist 3547
..... 3548

Address of Patient's Last Physician or Licensed Clinical 3549
Psychologist

..... 3550

..... 3551

The name and address of respondent's legal guardian, spouse, and 3552
adult next of kin are: 3553

<u>Name</u>	<u>Kinship</u>	<u>Address</u>	
.....	<u>Legal Guardian</u>	.....	3554
			3555
		.....	3556
		.....	3557
			3558
.....	<u>Spouse</u>	.....	3559
		.....	3560
			3561
.....	<u>Adult Next of Kin</u>	.....	3562
		.....	3563
			3564
.....	<u>Adult Next of Kin</u>	.....	3565
		.....	3566

The following constitutes additional information that may be 3567
necessary for the purpose of determining residence: 3568

..... 3569
..... 3570
..... 3571
..... 3572
..... 3573

Dated this day of, 20... 3574

..... 3575

<u>Signature of the party filing the affidavit</u>	3576
<u>Sworn to before me and signed in my presence on the day and year above dated.</u>	3577
	3578
.....	3579
<u>Signature of Probate Judge</u>	3580
.....	3581
<u>Signature of Deputy Clerk</u>	3582
<u>WAIVER</u>	3583
<u>I, the undersigned party filing the affidavit hereby waive the issuing and service of notice of the hearing on said affidavit, and voluntarily enter my appearance herein.</u>	3584
	3585
	3586
<u>Dated this day of, 20...</u>	3587
.....	3588
<u>Signature of the party filing the affidavit</u>	3589
Sec. 5122.13. Upon <u>Within two business days after</u> receipt of the affidavit required by section 5122.11 of the Revised Code, the <u>probate</u> court shall refer the affidavit to the board of alcohol, drug addiction, and mental health services or community mental health services provider the board designates to assist the court	3591
	3592
	3593
	3594
	3595

in determining whether the respondent is subject to 3596
~~hospitalization~~ court-ordered treatment and whether ~~alternative~~ 3597
~~services~~ alternatives to hospitalization are available, unless the 3598
services provider or board has already performed such screening. 3599
The board or services provider shall review the allegations of the 3600
affidavit and other information relating to whether or not the 3601
person named in the affidavit or statement is a mentally ill 3602
person subject to ~~hospitalization by~~ court order, and the 3603
availability of appropriate treatment alternatives. 3604

The person who conducts the investigation shall promptly make 3605
a report to the court, in writing, in open court or in chambers, 3606
as directed by the court and a full record of the report shall be 3607
made by the court. The report is not admissible as evidence for 3608
the purpose of establishing whether or not the respondent is a 3609
mentally ill person subject to ~~hospitalization by~~ court order, but 3610
shall be considered by the court in its determination of an 3611
appropriate placement for any person after that person is found to 3612
be a mentally ill person subject to ~~hospitalization~~ court order. 3613

The court, prior to the hearing under section 5122.141 of the 3614
Revised Code, shall release a copy of the investigative report to 3615
the respondent's counsel. 3616

Nothing in this section precludes a judge or referee from 3617
issuing a temporary order of detention pursuant to section 5122.11 3618
of the Revised Code. 3619

Sec. 5122.141. (A) A respondent who is involuntarily placed 3620
in a hospital or other place as designated in section 5122.10 or 3621
5122.17 of the Revised Code, or with respect to whom proceedings 3622
have been instituted under section 5122.11 of the Revised Code, 3623
shall be afforded a hearing to determine whether or not the 3624
respondent is a mentally ill person subject to ~~hospitalization by~~ 3625
court order. The hearing shall be conducted pursuant to section 3626

5122.15 of the Revised Code, and the respondent shall have the 3627
right to counsel as provided in that section. 3628

(B) The hearing shall be conducted within five court days 3629
from the day on which the respondent is detained or an affidavit 3630
is filed, whichever occurs first, in a physical setting not likely 3631
to have a harmful effect on the respondent, and may be conducted 3632
in a hospital in or out of the county. On the motion of the 3633
respondent, ~~his~~ the respondent's counsel, the chief clinical 3634
officer, or on its own motion, and for good cause shown, the court 3635
may order a continuance of the hearing. The continuance may be for 3636
no more than ten days from the day on which the respondent is 3637
detained or on which an affidavit is filed, whichever occurs 3638
first. Failure to conduct the hearing within this time shall 3639
effect an immediate discharge of the respondent. If the 3640
proceedings are not reinstated within thirty days, all records 3641
of the proceedings shall be expunged. 3642

(C) If the court does not find that the respondent is a 3643
mentally ill person subject to ~~hospitalization by~~ court order, it 3644
shall order ~~his~~ the respondent's immediate discharge, and shall 3645
expunge all record of the proceedings during this period. 3646

(D) If the court finds that the respondent is a mentally ill 3647
person subject to ~~hospitalization by~~ court order, the court may 3648
issue an interim order of detention ordering any health or police 3649
officer or sheriff to take into custody and transport such person 3650
to a hospital or other place designated in section 5122.17 of the 3651
Revised Code, where the respondent may be observed and treated. 3652

(E) A respondent or ~~his~~ a respondent's counsel, after 3653
obtaining the consent of the respondent, may waive the hearing 3654
provided for in this section. In such case, unless the person has 3655
been discharged, a mandatory full hearing shall be held by the 3656
thirtieth day after the original involuntary detention of the 3657
respondent. Failure to conduct the mandatory full hearing within 3658

this time limit shall result in the immediate discharge of the 3659
respondent. 3660

(F) Where possible, the initial hearing shall be held before 3661
the respondent is taken into custody. 3662

Sec. 5122.15. (A) Full hearings shall be conducted in a 3663
manner consistent with this chapter and with due process of law. 3664
The hearings shall be conducted by a judge of the probate court or 3665
a referee designated by a judge of the probate court and may be 3666
conducted in or out of the county in which the respondent is held. 3667
Any referee designated under this division shall be an attorney. 3668

(1) With the consent of the respondent, the following shall 3669
be made available to counsel for the respondent: 3670

(a) All relevant documents, information, and evidence in the 3671
custody or control of the state or prosecutor; 3672

(b) All relevant documents, information, and evidence in the 3673
custody or control of the hospital in which the respondent 3674
currently is held, or in which the respondent has been held 3675
pursuant to this chapter; 3676

(c) All relevant documents, information, and evidence in the 3677
custody or control of any hospital, facility, or person not 3678
included in division (A)(1)(a) or (b) of this section. 3679

(2) The respondent has the right to attend the hearing and to 3680
be represented by counsel of the respondent's choice. The right to 3681
attend the hearing may be waived only by the respondent or counsel 3682
for the respondent after consultation with the respondent. 3683

(3) If the respondent is not represented by counsel, is 3684
absent from the hearing, and has not validly waived the right to 3685
counsel, the court shall appoint counsel immediately to represent 3686
the respondent at the hearing, reserving the right to tax costs of 3687
appointed counsel to the respondent, unless it is shown that the 3688

respondent is indigent. If the court appoints counsel, or if the
court determines that the evidence relevant to the respondent's
absence does not justify the absence, the court shall continue the
case.

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

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

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

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

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

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

(10) Unless proceedings are initiated pursuant to section

5120.17 or 5139.08 of the Revised Code, an attorney that the board 3720
designates shall present the case demonstrating that the 3721
respondent is a mentally ill person subject to ~~hospitalization by~~ 3722
court order. The attorney shall offer evidence of the diagnosis, 3723
prognosis, record of treatment, if any, and less restrictive 3724
treatment plans, if any. In proceedings pursuant to section 3725
5120.17 or 5139.08 of the Revised Code, the attorney general shall 3726
designate an attorney who shall present the case demonstrating 3727
that the respondent is a mentally ill person subject to 3728
~~hospitalization by~~ court order. The attorney shall offer evidence 3729
of the diagnosis, prognosis, record of treatment, if any, and less 3730
restrictive treatment plans, if any. 3731

(11) The respondent or the respondent's counsel has the right 3732
to subpoena witnesses and documents and to examine and 3733
cross-examine witnesses. 3734

(12) The respondent has the right, but shall not be 3735
compelled, to testify, and shall be so advised by the court. 3736

(13) On motion of the respondent or the respondent's counsel 3737
for good cause shown, or on the court's own motion, the court may 3738
order a continuance of the hearing. 3739

(14) If the respondent is represented by counsel and the 3740
respondent's counsel requests a transcript and record, or if the 3741
respondent is not represented by counsel, the court shall make and 3742
maintain a full transcript and record of the proceeding. If the 3743
respondent is indigent and the transcript and record is made, a 3744
copy shall be provided to the respondent upon request and be 3745
treated as an expense under section 5122.43 of the Revised Code. 3746

(15) To the extent not inconsistent with this chapter, the 3747
Rules of Civil Procedure are applicable. 3748

(B) Unless, upon completion of the hearing the court finds by 3749
clear and convincing evidence that the respondent is a mentally 3750

ill person subject to ~~hospitalization by~~ court order, it shall 3751
order the respondent's discharge immediately. 3752

(C) If, upon completion of the hearing, the court finds by 3753
clear and convincing evidence that the respondent is a mentally 3754
ill person subject to ~~hospitalization by~~ court order, the court 3755
shall order the respondent for a period not to exceed ninety days 3756
to any of the following: 3757

(1) A hospital operated by the department of mental health 3758
and addiction services if the respondent is committed pursuant to 3759
section 5139.08 of the Revised Code; 3760

(2) A nonpublic hospital; 3761

(3) The veterans' administration or other agency of the 3762
United States government; 3763

(4) A board of alcohol, drug addiction, and mental health 3764
services or services provider the board designates; 3765

(5) Receive private psychiatric or psychological care and 3766
treatment; 3767

(6) Any other suitable facility or person consistent with the 3768
diagnosis, prognosis, and treatment needs of the respondent. A 3769
jail or other local correctional facility is not a suitable 3770
facility. 3771

(D) Any order made pursuant to division (C)(2), (3), (5), or 3772
(6) of this section shall be conditioned upon the receipt by the 3773
court of consent by the hospital, facility, agency, or person to 3774
accept the respondent and may include a requirement that a person 3775
or entity described in division (C)(2), (3), (5), or (6) of this 3776
section inform the board of alcohol, drug addiction, and mental 3777
health services or community mental health services provider the 3778
board designates about the progress of the respondent with the 3779
treatment plan. 3780

(E) In determining the ~~place~~ entity or person to which, ~~or~~ 3781
~~the person with whom,~~ the respondent is to be committed under 3782
division (C) of this section, the court shall consider the 3783
diagnosis, prognosis, preferences of the respondent and the 3784
projected treatment plan for the respondent and shall order the 3785
implementation of the least restrictive alternative available and 3786
consistent with treatment goals. If the court determines that the 3787
least restrictive alternative available that is consistent with 3788
treatment goals is inpatient hospitalization, the court's order 3789
shall so state. 3790

(F) During ~~such~~ the ninety-day period the ~~hospital; facility;~~ 3791
~~board of alcohol, drug addiction, and mental health services;~~ 3792
~~services provider the board designates;~~ entity or person shall 3793
examine and treat the individual respondent. If the respondent is 3794
receiving treatment in an outpatient setting, or receives 3795
treatment in an outpatient setting during a subsequent period of 3796
continued commitment under division (H) of this section, the 3797
entity or person to whom the respondent is committed shall 3798
determine the appropriate outpatient treatment for the respondent. 3799
If, at any time prior to the expiration of the ninety-day period, 3800
it is determined by the ~~hospital, facility, board, services~~ 3801
~~provider,~~ entity or person that the respondent's treatment needs 3802
could be equally well met in an available and appropriate less 3803
restrictive ~~environment~~ setting, both of the following apply: 3804

(1) The respondent shall be released from the care of the 3805
~~hospital, services provider, facility,~~ entity or person 3806
immediately and shall be referred to the court together with a 3807
report of the findings and recommendations of the ~~hospital,~~ 3808
~~services provider, facility,~~ entity or person; ~~and~~ 3809

(2) The ~~hospital, services provider, facility,~~ entity or 3810
person shall notify the respondent's counsel or the attorney 3811
designated by a board of alcohol, drug addiction, and mental 3812

health services or, if the respondent was committed to a board or 3813
a services provider designated by the board, it shall place the 3814
respondent in the least restrictive ~~environment~~ setting available 3815
consistent with treatment goals and notify the court and the 3816
respondent's counsel of the placement. 3817

The court shall dismiss the case or order placement in the 3818
least restrictive ~~environment~~ setting. 3819

(G)(1) Except as provided in ~~divisions~~ division (G)(2) and 3820
(~~3~~) of this section, any person ~~who has been committed under this~~ 3821
~~section, or~~ for whom proceedings for ~~hospitalization~~ treatment 3822
have been commenced pursuant to section 5122.11 of the Revised 3823
Code, may apply at any time for voluntary admission or treatment 3824
to the ~~hospital, facility, or services provider that the board~~ 3825
~~designates,~~ entity or person to which the person was committed. 3826
Upon admission as a voluntary patient the chief clinical officer 3827
of the ~~hospital, services provider, or other facility,~~ entity or 3828
the person immediately shall notify the court, the patient's 3829
counsel, and the attorney designated by the board, if the attorney 3830
has entered the proceedings, in writing of that fact, and, upon 3831
receipt of the notice, the court shall dismiss the case. 3832

(2) A person who is found incompetent to stand trial or not 3833
guilty by reason of insanity and who is committed pursuant to 3834
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3835
Code shall not voluntarily commit the person pursuant to this 3836
section until after the final termination of the commitment, as 3837
described in division (J) of section 2945.401 of the Revised Code. 3838

(H) If, at the end of the first ninety-day period or any 3839
subsequent period of continued commitment, there has been no 3840
disposition of the case, either by discharge or voluntary 3841
admission or treatment, the ~~hospital, facility, board, services~~ 3842
~~provider,~~ entity or person shall discharge the patient 3843
immediately, unless at least ten days before the expiration of the 3844

period the attorney the board designates or the prosecutor files 3845
with the court an application for continued commitment. The 3846
application of the attorney or the prosecutor shall include a 3847
written report containing the diagnosis, prognosis, past 3848
treatment, a list of alternative treatment settings and plans, and 3849
identification of the treatment setting that is the least 3850
restrictive consistent with treatment needs. The attorney the 3851
board designates or the prosecutor shall file the written report 3852
at least three days prior to the full hearing. A copy of the 3853
application and written report shall be provided to the 3854
respondent's counsel immediately. 3855

The court shall hold a full hearing on applications for 3856
continued commitment at the expiration of the first ninety-day 3857
period and at least every two years after the expiration of the 3858
first ninety-day period. 3859

Hearings following any application for continued commitment 3860
are mandatory and may not be waived. 3861

For a respondent who is ordered to receive treatment in an 3862
outpatient setting, if at any time after the first ninety-day 3863
period the entity or person to whom the respondent was ordered 3864
determines that the respondent has demonstrated voluntary consent 3865
for treatment, that entity or person shall immediately notify the 3866
respondent, the respondent's counsel, the attorney designated by 3867
the board, and the court. The entity or person shall submit to the 3868
court a report of the findings and recommendations. The court may 3869
dismiss the case upon review of the facts. 3870

Upon request of a person who is involuntarily committed under 3871
this section, or the person's counsel, that is made more than one 3872
hundred eighty days after the person's last full hearing, 3873
mandatory or requested, the court shall hold a full hearing on the 3874
person's continued commitment. Upon the application of a person 3875
involuntarily committed under this section, supported by an 3876

affidavit of a psychiatrist or licensed clinical psychologist, 3877
alleging that the person no longer is a mentally ill person 3878
subject to ~~hospitalization by~~ court order, the court for good 3879
cause shown may hold a full hearing on the person's continued 3880
commitment prior to the expiration of one hundred eighty days 3881
after the person's last full hearing. Section 5122.12 of the 3882
Revised Code applies to all hearings on continued commitment. 3883

If the court, after a hearing for continued commitment finds 3884
by clear and convincing evidence that the respondent is a mentally 3885
ill person subject to ~~hospitalization by~~ court order, the court 3886
may order continued commitment at places or to persons specified 3887
in division (C) of this section. 3888

(I) Unless the admission is pursuant to section 5120.17 or 3889
5139.08 of the Revised Code, the chief clinical officer of the 3890
~~hospital or services provider~~ entity admitting a respondent 3891
pursuant to a judicial proceeding, within ten working days of the 3892
admission, shall make a report of the admission to the board of 3893
alcohol, drug addiction, and mental health services serving the 3894
respondent's county of residence. 3895

(J) A referee appointed by the court may make all orders that 3896
a judge may make under this section and sections 5122.11 and 3897
5122.141 of the Revised Code, except an order of contempt of 3898
court. The orders of a referee take effect immediately. Within 3899
fourteen days of the making of an order by a referee, a party may 3900
file written objections to the order with the court. The filed 3901
objections shall be considered a motion, shall be specific, and 3902
shall state their grounds with particularity. Within ten days of 3903
the filing of the objections, a judge of the court shall hold a 3904
hearing on the objections and may hear and consider any testimony 3905
or other evidence relating to the respondent's mental condition. 3906
At the conclusion of the hearing, the judge may ratify, rescind, 3907
or modify the referee's order. 3908

(K) An order of the court under division (C), (H), or (J) of this section is a final order. 3909
3910

(L) Before a board, or a services provider the board designates, may place an unconsenting respondent in an inpatient setting from a less restrictive placement, the board or services provider shall do all of the following: 3911
3912
3913
3914

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting; 3915
3916
3917
3918

(2) On the day of placement in the inpatient setting or on the next court day, file with the court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed; 3919
3920
3921
3922

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible; 3923
3924
3925

(4) Immediately notify the board's designated attorney and the respondent's attorney. 3926
3927

At the respondent's request, the court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five days of the placement. 3928
3929
3930

(M) Before a board, or a services provider the board designates, may move a respondent from one residential placement to another, the board or services provider shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent. 3931
3932
3933
3934
3935
3936
3937

(N) The entity or person to whom the respondent was ordered 3938

for treatment in an outpatient setting may submit a report to the 3939
court indicating that the respondent has either failed to comply 3940
with the treatment plan or begun to demonstrate signs of 3941
decompensation that may be grounds for hospitalization. On receipt 3942
of the report, the court shall promptly schedule a hearing to 3943
review the case. The court shall conduct the hearing in a manner 3944
consistent with this chapter and due process of law. The board 3945
shall receive notice of the hearing and the board and entity or 3946
person treating the respondent shall submit a report to the court 3947
with a plan for appropriate alternative treatment, if any, or 3948
recommend that the court discontinue the court-ordered treatment. 3949
The court shall consider available and appropriate alternative 3950
placements but shall not impose criminal sanctions that result in 3951
confinement in a jail or other local correctional facility based 3952
on the respondent's failure to comply with the treatment plan. The 3953
court may not order the respondent to a more restrictive placement 3954
unless the criteria specified in division (L) of this section are 3955
met and may not order the respondent to an inpatient setting 3956
unless the court determines by clear and convincing evidence 3957
presented by the board that the respondent meets the criteria 3958
specified in divisions (A) and (B)(1), (2), (3), or (4) of section 3959
5122.01 of the Revised Code. 3960

Sec. 5122.19. Every person transported to a hospital or 3961
community mental health services provider pursuant to sections 3962
5122.11 to 5122.16 of the Revised Code, shall be examined by the 3963
staff of the hospital or services provider as soon as practicable 3964
after arrival at the hospital or services provider. Such an 3965
examination shall be held within twenty-four hours after the time 3966
of arrival, and if the chief clinical officer fails after such an 3967
examination to certify that in the chief clinical officer's 3968
opinion the person is a mentally ill person subject to 3969
~~hospitalization by~~ court order, the person shall be immediately 3970

released. 3971

Sec. 5122.21. (A) The chief clinical officer shall as 3972
frequently as practicable, and at least once every thirty days, 3973
examine or cause to be examined every patient, and, whenever the 3974
chief clinical officer determines that the conditions justifying 3975
involuntary hospitalization or commitment no longer obtain, shall 3976
discharge the patient not under indictment or conviction for crime 3977
and immediately make a report of the discharge to the department 3978
of mental health and addiction services. The chief clinical 3979
officer may discharge a patient who is under an indictment, a 3980
sentence of imprisonment, a community control sanction, or a 3981
post-release control sanction or on parole ten days after written 3982
notice of intent to discharge the patient has been given by 3983
personal service or certified mail, return receipt requested, to 3984
the court having criminal jurisdiction over the patient. Except 3985
when the patient was found not guilty by reason of insanity and 3986
the defendant's commitment is pursuant to section 2945.40 of the 3987
Revised Code, the chief clinical officer has final authority to 3988
discharge a patient who is under an indictment, a sentence of 3989
imprisonment, a community control sanction, or a post-release 3990
control sanction or on parole. 3991

(B) After a finding pursuant to section 5122.15 of the 3992
Revised Code that a person is a mentally ill person subject to 3993
~~hospitalization by~~ court order, the chief clinical officer of the 3994
hospital or community mental health services provider to which the 3995
person is ordered or to which the person is transferred under 3996
section 5122.20 of the Revised Code, may grant a discharge without 3997
the consent or authorization of any court. 3998

Upon discharge, the chief clinical officer shall notify the 3999
court that caused the judicial hospitalization of the discharge 4000
from the hospital. 4001

Sec. 5122.27. The chief clinical officer of the hospital or 4002
the chief clinical officer's designee shall assure that all 4003
patients hospitalized or committed pursuant to this chapter shall: 4004

(A) Receive, within twenty days of their admission sufficient 4005
professional care to assure that an evaluation of current status, 4006
differential diagnosis, probable prognosis, and description of the 4007
current treatment plan is stated on the official chart; 4008

(B) Have a written treatment plan consistent with the 4009
evaluation, diagnosis, prognosis, and goals which shall be 4010
provided, upon request of the patient or patient's counsel, to the 4011
patient's counsel and to any private physician or licensed 4012
clinical psychologist designated by the patient or the patient's 4013
counsel or to the Ohio protection and advocacy system; 4014

(C) Receive treatment consistent with the treatment plan. The 4015
department of mental health and addiction services shall set 4016
standards for treatment provided to such patients, consistent 4017
wherever possible with standards set by the joint commission. 4018

(D) Receive periodic reevaluations of the treatment plan by 4019
the professional staff at intervals not to exceed ninety days; 4020

(E) Be provided with adequate medical treatment for physical 4021
disease or injury; 4022

(F) Receive humane care and treatment, including without 4023
limitation, the following: 4024

(1) The least restrictive environment consistent with the 4025
treatment plan; 4026

(2) The necessary facilities and personnel required by the 4027
treatment plan; 4028

(3) A humane psychological and physical environment; 4029

(4) The right to obtain current information concerning the 4030

patient's treatment program and expectations in terms that the 4031
patient can reasonably understand; 4032

(5) Participation in programs designed to afford the patient 4033
substantial opportunity to acquire skills to facilitate return to 4034
the community or to terminate an involuntary commitment; 4035

(6) The right to be free from unnecessary or excessive 4036
medication; 4037

(7) Freedom from restraints or isolation unless it is stated 4038
in a written order by the chief clinical officer or the chief 4039
clinical officer's designee, or the patient's individual physician 4040
or psychologist in a private or general hospital. 4041

If the chief clinical officer of the hospital is unable to 4042
provide the treatment required by divisions (C), (E), and (F) of 4043
this section for any patient hospitalized pursuant to Chapter 4044
5122. of the Revised Code, the chief clinical officer shall 4045
immediately notify the patient, the court, the Ohio protection and 4046
advocacy system, the director of mental health and addiction 4047
services, and the patient's counsel and legal guardian, if known. 4048
If within ten days after receipt of such notification by the 4049
director, the director is unable to effect a transfer of the 4050
patient, pursuant to section 5122.20 of the Revised Code, to a 4051
hospital, community mental health services provider, or other 4052
medical facility where treatment is available, or has not received 4053
an order of the court to the contrary, the involuntary commitment 4054
of any patient hospitalized pursuant to Chapter 5122. of the 4055
Revised Code and defined as a mentally ill person subject to 4056
~~hospitalization by~~ court order under division (B)(4) of section 4057
5122.01 of the Revised Code shall automatically be terminated. 4058

Sec. 5122.30. Any person detained pursuant to this chapter or 4059
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 4060
Code shall be entitled to the writ of habeas corpus upon proper 4061

petition by self or by a friend to any court generally empowered 4062
to issue the writ of habeas corpus in the county in which the 4063
person is detained. 4064

No person may bring a petition for a writ of habeas corpus 4065
that alleges that a person involuntarily detained pursuant to this 4066
chapter no longer is a mentally ill person subject to 4067
~~hospitalization by~~ court order unless the person shows that the 4068
release procedures of division (H) of section 5122.15 of the 4069
Revised Code are inadequate or unavailable. 4070

Sec. 5122.31. (A) All certificates, applications, records, 4071
and reports made for the purpose of this chapter and sections 4072
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 4073
Code, other than court journal entries or court docket entries, 4074
and directly or indirectly identifying a patient or former patient 4075
or person whose hospitalization or commitment has been sought 4076
under this chapter, shall be kept confidential and shall not be 4077
disclosed by any person except: 4078

(1) If the person identified, or the person's legal guardian, 4079
if any, or if the person is a minor, the person's parent or legal 4080
guardian, consents, and if the disclosure is in the best interests 4081
of the person, as may be determined by the court for judicial 4082
records and by the chief clinical officer for medical records; 4083

(2) When disclosure is provided for in this chapter or 4084
Chapters 340. or 5119. of the Revised Code or in accordance with 4085
other provisions of state or federal law authorizing such 4086
disclosure; 4087

(3) That hospitals, boards of alcohol, drug addiction, and 4088
mental health services, and community mental health services 4089
providers may release necessary medical information to insurers 4090
and other third-party payers, including government entities 4091
responsible for processing and authorizing payment, to obtain 4092

payment for goods and services furnished to the patient; 4093

(4) Pursuant to a court order signed by a judge; 4094

(5) That a patient shall be granted access to the patient's 4095
own psychiatric and medical records, unless access specifically is 4096
restricted in a patient's treatment plan for clear treatment 4097
reasons; 4098

(6) That hospitals and other institutions and facilities 4099
within the department of mental health and addiction services may 4100
exchange psychiatric records and other pertinent information with 4101
other hospitals, institutions, and facilities of the department, 4102
and with community mental health services providers and boards of 4103
alcohol, drug addiction, and mental health services with which the 4104
department has a current agreement for patient care or services. 4105
Records and information that may be released pursuant to this 4106
division shall be limited to medication history, physical health 4107
status and history, financial status, summary of course of 4108
treatment in the hospital, summary of treatment needs, and a 4109
discharge summary, if any. 4110

(7) That hospitals within the department and other 4111
institutions and facilities within the department may exchange 4112
psychiatric records and other pertinent information with payers 4113
and other providers of treatment and health services if the 4114
purpose of the exchange is to facilitate continuity of care for a 4115
patient or for the emergency treatment of an individual; 4116

(8) That a patient's family member who is involved in the 4117
provision, planning, and monitoring of services to the patient may 4118
receive medication information, a summary of the patient's 4119
diagnosis and prognosis, and a list of the services and personnel 4120
available to assist the patient and the patient's family, if the 4121
patient's treating physician determines that the disclosure would 4122
be in the best interests of the patient. No such disclosure shall 4123

be made unless the patient is notified first and receives the 4124
information and does not object to the disclosure. 4125

(9) That community mental health services providers may 4126
exchange psychiatric records and certain other information with 4127
the board of alcohol, drug addiction, and mental health services 4128
and other services providers in order to provide services to a 4129
person involuntarily committed to a board. Release of records 4130
under this division shall be limited to medication history, 4131
physical health status and history, financial status, summary of 4132
course of treatment, summary of treatment needs, and discharge 4133
summary, if any. 4134

(10) That information may be disclosed to the executor or the 4135
administrator of an estate of a deceased patient when the 4136
information is necessary to administer the estate; 4137

(11) That records in the possession of the Ohio historical 4138
society may be released to the closest living relative of a 4139
deceased patient upon request of that relative; 4140

(12) That records pertaining to the patient's diagnosis, 4141
course of treatment, treatment needs, and prognosis shall be 4142
disclosed and released to the appropriate prosecuting attorney if 4143
the patient was committed pursuant to section 2945.38, 2945.39, 4144
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 4145
attorney designated by the board for proceedings pursuant to 4146
involuntary commitment under this chapter. 4147

(13) That the department of mental health and addiction 4148
services may exchange psychiatric hospitalization records, other 4149
mental health treatment records, and other pertinent information 4150
with the department of rehabilitation and correction and with the 4151
department of youth services to ensure continuity of care for 4152
inmates or offenders who are receiving mental health services in 4153
an institution of the department of rehabilitation and correction 4154

or the department of youth services and may exchange psychiatric 4155
hospitalization records, other mental health treatment records, 4156
and other pertinent information with boards of alcohol, drug 4157
addiction, and mental health services and community mental health 4158
services providers to ensure continuity of care for inmates or 4159
offenders who are receiving mental health services in an 4160
institution and are scheduled for release within six months. The 4161
department shall not disclose those records unless the inmate or 4162
offender is notified, receives the information, and does not 4163
object to the disclosure. The release of records under this 4164
division is limited to records regarding an inmate's or offender's 4165
medication history, physical health status and history, summary of 4166
course of treatment, summary of treatment needs, and a discharge 4167
summary, if any. 4168

(B) Before records are disclosed pursuant to divisions 4169
(A)(3), (6), and (9) of this section, the custodian of the records 4170
shall attempt to obtain the patient's consent for the disclosure. 4171
No person shall reveal the contents of a medical record of a 4172
patient except as authorized by law. 4173

(C) The managing officer of a hospital who releases necessary 4174
medical information under division (A)(3) of this section to allow 4175
an insurance carrier or other third party payor to comply with 4176
section 5121.43 of the Revised Code shall neither be subject to 4177
criminal nor civil liability. 4178

Sec. 5122.311. (A) Notwithstanding any provision of the 4179
Revised Code to the contrary, if, on or after April 8, 2004, an 4180
individual is found by a court to be a mentally ill person subject 4181
to ~~hospitalization by~~ court order or becomes an involuntary 4182
patient other than one who is a patient only for purposes of 4183
observation, the probate judge who made the adjudication or the 4184
chief clinical officer of the hospital, community mental health 4185

services provider, or facility in which the person is an 4186
involuntary patient shall notify the ~~bureau of criminal~~ 4187
~~identification and investigation~~ office of the attorney general, 4188
on the form described in division (C) of this section, of the 4189
identity of the individual. The notification shall be transmitted 4190
by the judge or the chief clinical officer not later than seven 4191
days after the adjudication or commitment. 4192

(B) The ~~bureau of criminal identification and investigation~~ 4193
office of the attorney general shall compile and maintain the 4194
notices it receives under division (A) of this section and the 4195
notices shall ~~use them~~ be used for the purpose of conducting 4196
incompetency records checks pursuant to section 311.41 of the 4197
Revised Code. The notices and the information they contain are 4198
confidential, except as provided in this division, and are not 4199
public records. 4200

(C) The attorney general, by rule adopted under Chapter 119. 4201
of the Revised Code, shall prescribe and make available to all 4202
probate judges and all chief clinical officers a form to be used 4203
by them for the purpose of making the notifications required by 4204
division (A) of this section. 4205

Sec. 5122.34. (A) Persons, including, but not limited to, 4206
boards of alcohol, drug addiction, and mental health services and 4207
community mental health services providers, acting in good faith, 4208
either upon actual knowledge or information thought by them to be 4209
reliable, who procedurally or physically assist in the 4210
hospitalization or discharge, determination of appropriate 4211
placement, court-ordered treatment, or in judicial proceedings of 4212
a person under this chapter, do not come within any criminal 4213
provisions, and are free from any liability to the person 4214
hospitalized or receiving court-ordered treatment or to any other 4215
person. 4216

(B) Regardless of whether any affirmative action has been 4217
taken under this chapter with respect to a mental health client or 4218
patient and except as otherwise provided in section 2305.51 of the 4219
Revised Code, no person shall be liable for any harm that results 4220
to any other person as a result of failing to disclose any 4221
confidential information about the mental health client or 4222
patient, or failing to otherwise attempt to protect such other 4223
person from harm by such client or patient. 4224

(C) This section applies to expert witnesses who testify at 4225
hearings under this chapter. 4226

(D) The immunity from liability conferred by this section is 4227
in addition to and not in limitation of any immunity conferred by 4228
any other section of the Revised Code or by judicial precedent. 4229

Sec. 5122.43. (A) Costs, fees, and expenses of all 4230
proceedings held under this chapter shall be paid as follows: 4231

(1) To police and health officers, other than sheriffs or 4232
their deputies, the same fees allowed to constables, to be paid 4233
upon the approval of the probate judge; 4234

(2) To sheriffs or their deputies, the same fees allowed for 4235
similar services in the court of common pleas; 4236

(3) To physicians or licensed clinical psychologists acting 4237
as expert witnesses and to other expert witnesses designated by 4238
the court, an amount determined by the court; 4239

(4) To other witnesses, the same fees and mileage as for 4240
attendance at the court of common pleas, to be paid upon the 4241
approval of the probate judge; 4242

(5) To a person, other than the sheriff or the sheriff's 4243
deputies, for taking a mentally ill person to a hospital or 4244
removing a mentally ill person from a hospital, the actual 4245
necessary expenses incurred, specifically itemized, and approved 4246

by the probate judge; 4247

(6) To assistants who convey mentally ill persons to the 4248
hospital when authorized by the probate judge, a fee set by the 4249
probate court, provided the assistants are not drawing a salary 4250
from the state or any political subdivision of the state, and 4251
their actual necessary expenses incurred, provided that the 4252
expenses are specifically itemized and approved by the probate 4253
judge; 4254

(7) To an attorney appointed by the probate division for an 4255
indigent who allegedly is a mentally ill person pursuant to any 4256
section of this chapter or a person suffering from alcohol and 4257
other drug abuse and who may be ordered under sections 5119.91 to 4258
5119.98 of the Revised Code to undergo treatment, the fees that 4259
are determined by the probate division. When those indigent 4260
persons are before the court, all filing and recording fees shall 4261
be waived. 4262

(8) To a referee who is appointed to conduct proceedings 4263
under this chapter that involve a respondent whose domicile is or, 4264
before the respondent's hospitalization, was not the county in 4265
which the proceedings are held, compensation as fixed by the 4266
probate division, but not more than the compensation paid for 4267
similar proceedings for respondents whose domicile is in the 4268
county in which the proceedings are held; 4269

(9) To a court reporter appointed to make a transcript of 4270
proceedings under this chapter, the compensation and fees allowed 4271
in other cases under section 2101.08 of the Revised Code. 4272

(B) A county shall pay for the costs, fees, and expenses 4273
described in division (A) of this section with money appropriated 4274
pursuant to section 2101.11 of the Revised Code. A county may seek 4275
reimbursement from the department of mental health and addiction 4276
services by submitting a request and certification by the county 4277

auditor of the costs, fees, and expenses to the department within 4278
two months of the date the costs, fees, and expenses are incurred 4279
by the county. 4280

Each fiscal year, based on past allocations, historical 4281
utilization, and other factors the department considers 4282
appropriate, the department shall allocate for each county an 4283
amount for reimbursements under this section. The total of all the 4284
allocations shall equal the amount appropriated for the fiscal 4285
year to the department specifically for the purposes of this 4286
section. 4287

On receipt, the department shall review each request for 4288
reimbursement and prepare a voucher for the amount of the costs, 4289
fees, and expenses incurred by the county, provided that the total 4290
amount of money paid to all counties in each fiscal year shall not 4291
exceed the total amount of moneys specifically appropriated to the 4292
department for these purposes. 4293

The department's total reimbursement to each county shall be 4294
the lesser of the full amount requested or the amount allocated 4295
for the county under this division. In addition, the department 4296
shall distribute any surplus remaining from the money appropriated 4297
for the fiscal year to the department for the purposes of this 4298
section as follows to counties whose full requests exceed their 4299
allocations: 4300

(1) If the surplus is sufficient to reimburse such counties 4301
the full amount of their requests, each such county shall receive 4302
the full amount of its request; 4303

(2) If the surplus is insufficient, each such county shall 4304
receive a percentage of the surplus determined by dividing the 4305
difference between the county's full request and its allocation by 4306
the difference between the total of the full requests of all such 4307
counties and the total of the amounts allocated for all such 4308

counties. 4309

The department may adopt rules in accordance with Chapter 4310
119. of the Revised Code to implement the payment of costs, fees, 4311
and expenses under this section. 4312

Sec. 5139.54. (A) Notwithstanding any other provision for 4313
determining when a child shall be released or discharged from the 4314
legal custody of the department of youth services, including 4315
jurisdictional provisions in section 2152.22 of the Revised Code, 4316
the release authority, for medical reasons, may release a child 4317
upon supervised release or discharge the child from the custody of 4318
the department when any of the following applies: 4319

(1) The child is terminally ill or otherwise in imminent 4320
danger of death. 4321

(2) The child is incapacitated due to injury, disease, 4322
illness, or other medical condition and is no longer a threat to 4323
public safety. 4324

(3) The child appears to be a mentally ill person subject to 4325
~~hospitalization by~~ court order, as defined in section 5122.01 of 4326
the Revised Code, or a mentally retarded person subject to 4327
institutionalization by court order, as defined in section 5123.01 4328
of the Revised Code. 4329

(B) When considering whether to release or discharge a child 4330
under this section for medical reasons, the release authority may 4331
request additional medical information about the child or may ask 4332
the department to conduct additional medical examinations. 4333

(C) The release authority shall determine the appropriate 4334
level of supervised release for a child released under this 4335
section. The terms and conditions of the release may require 4336
periodic medical reevaluations as appropriate. Upon granting a 4337
release or discharge under this section, the release authority 4338

shall give notice of the release and its terms and conditions or 4339
of the discharge to the court that committed the child to the 4340
custody of the department. 4341

(D) The release authority shall submit annually to the 4342
director of youth services a report that includes all of the 4343
following information for the previous calendar year: 4344

(1) The number of children the release authority considered 4345
for medical release or discharge; 4346

(2) The nature of the injury, disease, illness, or other 4347
medical condition of each child considered for medical release or 4348
discharge; 4349

(3) The decision made by the release authority for each 4350
child, including the reasons for denying medical release or 4351
discharge or for granting it; 4352

(4) The number of children on medical release who were 4353
returned to a secure facility or whose supervised release was 4354
revoked. 4355

Sec. 5305.22. (A) Any real estate or interest in real estate 4356
coming to a person by purchase, inheritance, or otherwise, after 4357
the spouse of the person is adjudged a mentally ill person subject 4358
to ~~hospitalization by~~ court order and admitted to either a 4359
hospital for persons with mental illness in this or any other 4360
state of the United States or the psychiatric department of any 4361
hospital of the United States, may be conveyed by the person while 4362
the person's spouse who is a mentally ill person subject to 4363
~~hospitalization by~~ court order remains a patient of that hospital, 4364
free and clear from any dower right or expectancy of the person's 4365
spouse who is a mentally ill person subject to ~~hospitalization by~~ 4366
court order. Dower shall not attach to any real estate so acquired 4367
and conveyed during the time described in this section in favor of 4368

such spouse who is a mentally ill person subject to 4369
~~hospitalization by~~ court order. The indorsement upon the 4370
instrument of conveyance, by the superintendent of the hospital to 4371
which the spouse was admitted, that the spouse of the person 4372
conveying the real estate is a mentally ill person subject to 4373
~~hospitalization by~~ court order who has been admitted to that 4374
hospital, stating when received in that hospital and signed 4375
officially by the superintendent, shall be sufficient evidence of 4376
the fact that the spouse of the person conveying the real estate 4377
is a mentally ill person subject to ~~hospitalization by~~ court 4378
order. This indorsement shall be a part of the instrument of 4379
conveyance. 4380

(B) As used in this section, "mentally ill person subject to 4381
~~hospitalization by~~ court order" has the same meaning as in section 4382
5122.01 of the Revised Code. 4383

Sec. 5907.06. (A) A mentally ill person subject to 4384
~~hospitalization by~~ court order whose mental condition causes the 4385
person to be dangerous to the community shall not be admitted to a 4386
veterans' home. If a mentally ill person subject to 4387
~~hospitalization by~~ court order, through misrepresentation as to 4388
the person's condition, is sent to a home, the person shall be 4389
returned to, and the expense of the return shall be borne by, the 4390
county from which the person came. 4391

(B) As used in this section, "mentally ill person subject to 4392
~~hospitalization by~~ court order" has the same meaning as in section 4393
5122.01 of the Revised Code. 4394

Sec. 5907.09. (A) When the affidavit referred to in section 4395
5907.08 of the Revised Code is filed, the probate judge shall 4396
forthwith determine whether the resident is a mentally ill person 4397
subject to ~~hospitalization by~~ court order. Insofar as applicable, 4398

the laws governing in cases of admission to a state hospital for 4399
persons with mental illness shall apply. The probate judge shall 4400
have the same authority, and may receive and order paid the same 4401
fees and costs, as the probate judge would have in the county in 4402
which the veteran was a resident at the time of entering the 4403
veterans' home. 4404

(B) As used in this section, "mentally ill person subject to 4405
~~hospitalization by court order~~" has the same meaning as in section 4406
5122.01 of the Revised Code. 4407

Section 2. That existing sections 2101.16, 2151.011, 2151.23, 4408
2923.125, 2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2945.40, 4409
2945.401, 2967.22, 5119.311, 5120.17, 5122.01, 5122.03, 5122.05, 4410
5122.10, 5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 4411
5122.27, 5122.30, 5122.31, 5122.311, 5122.34, 5122.43, 5139.54, 4412
5305.22, 5907.06, and 5907.09 of the Revised Code are hereby 4413
repealed. 4414

Section 3. The amendments to divisions (B)(49) and (50) of 4415
section 2151.011 of the Revised Code by H.B. 59 of the 130th 4416
General Assembly, which appear in this act are to take effect on 4417
July 1, 2014, are not accelerated by their inclusion in this act. 4418