

**As Re-referred to the Senate Civil Justice Committee**

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

**S. B. No. 43**

**Senators Burke, Tavares**

**Cosponsors: Senators Balderson, Kearney, Seitz, Sawyer**

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**A B I L L**

To amend sections 2151.011, 2151.23, 2923.125, 1  
2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2  
2945.40, 2945.401, 2967.22, 5119.23, 5120.17, 3  
5122.01, 5122.03, 5122.05, 5122.10, 5122.11, 4  
5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 5  
5122.27, 5122.30, 5122.31, 5122.311, 5139.54, 6  
5305.22, 5907.06, and 5907.09 and to enact section 7  
5122.111 of the Revised Code and to amend the 8  
version of section 2151.011 of the Revised Code 9  
that is scheduled to take effect on January 1, 10  
2014, to make changes to the laws governing the 11  
civil commitment of and treatment provided to 12  
mentally ill persons. 13

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

following: a public or private detention facility; shelter	264
facility; certified children's crisis care facility; organization;	265
certified organization; child day-care center; type A family	266
day-care home; certified type B family day-care home; group home;	267
institution; state institution; residential facility; residential	268
care facility; residential camp; day camp; school district;	269
community school; chartered nonpublic school; educational service	270
center; hospital; or medical clinic;	271
(c) Any person who supervises or coaches children as part of	272
an extracurricular activity sponsored by a school district, public	273
school, or chartered nonpublic school;	274
(d) Any other person who performs a similar function with	275
respect to, or has a similar relationship to, children.	276
(36) "Physically impaired" means having one or more of the	277
following conditions that substantially limit one or more of an	278
individual's major life activities, including self-care, receptive	279
and expressive language, learning, mobility, and self-direction:	280
(a) A substantial impairment of vision, speech, or hearing;	281
(b) A congenital orthopedic impairment;	282
(c) An orthopedic impairment caused by disease, rheumatic	283
fever or any other similar chronic or acute health problem, or	284
amputation or another similar cause.	285
(37) "Placement for adoption" means the arrangement by a	286
public children services agency or a private child placing agency	287
with a person for the care and adoption by that person of a child	288
of whom the agency has permanent custody.	289
(38) "Placement in foster care" means the arrangement by a	290
public children services agency or a private child placing agency	291
for the out-of-home care of a child of whom the agency has	292
temporary custody or permanent custody.	293

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

recreational or recreational and educational purposes. 324

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

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

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

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

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

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

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

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

disposition.	354
(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.	355 356
(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.	357 358 359 360 361
(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.	362 363 364 365 366 367
(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.	368 369 370 371 372
<b>Sec. 2151.23.</b> (A) The juvenile court has exclusive original jurisdiction under the Revised Code as follows:	373 374
(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 delinquent, unruly, abused, neglected, or dependent child and, based on and in relation to the allegation pertaining to the child, concerning the parent, guardian, or other person having care of a child who is alleged to be an unruly or delinquent child for being an habitual or chronic truant;	375 376 377 378 379 380 381 382 383

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

approval of consent agreements under those sections. 572

**Sec. 2923.125.** (A) This section applies with respect to the 573  
application for and issuance by this state of concealed handgun 574  
licenses other than concealed handgun licenses on a temporary 575  
emergency basis that are issued under section 2923.1213 of the 576  
Revised Code. Upon the request of a person who wishes to obtain a 577  
concealed handgun license with respect to which this section 578  
applies or to renew a concealed handgun license with respect to 579  
which this section applies, a sheriff, as provided in division (I) 580  
of this section, shall provide to the person free of charge an 581  
application form and the web site address at which the pamphlet 582  
described in division (B) of section 109.731 of the Revised Code 583  
may be found. A sheriff shall accept a completed application form 584  
and the fee, items, materials, and information specified in 585  
divisions (B)(1) to (5) of this section at the times and in the 586  
manners described in division (I) of this section. 587

(B) An applicant for a concealed handgun license with respect 588  
to which this section applies shall submit a completed application 589  
form and all of the following to the sheriff of the county in 590  
which the applicant resides or to the sheriff of any county 591  
adjacent to the county in which the applicant resides: 592

(1)(a) A nonrefundable license fee as described in either of 593  
the following: 594

(i) For an applicant who has been a resident of this state 595  
for five or more years, a fee of sixty-seven dollars; 596

(ii) For an applicant who has been a resident of this state 597  
for less than five years, a fee of sixty-seven dollars plus the 598  
actual cost of having a background check performed by the federal 599  
bureau of investigation. 600

(b) No sheriff shall require an applicant to pay for the cost 601

of a background check performed by the bureau of criminal 602  
identification and investigation. 603

(c) A sheriff shall waive the payment of the license fee 604  
described in division (B)(1)(a) of this section in connection with 605  
an initial or renewal application for a license that is submitted 606  
by an applicant who is a retired peace officer, a retired person 607  
described in division (B)(1)(b) of section 109.77 of the Revised 608  
Code, or a retired federal law enforcement officer who, prior to 609  
retirement, was authorized under federal law to carry a firearm in 610  
the course of duty, unless the retired peace officer, person, or 611  
federal law enforcement officer retired as the result of a mental 612  
disability. 613

(d) The sheriff shall deposit all fees paid by an applicant 614  
under division (B)(1)(a) of this section into the sheriff's 615  
concealed handgun license issuance fund established pursuant to 616  
section 311.42 of the Revised Code. The county shall distribute 617  
the fees in accordance with section 311.42 of the Revised Code. 618

(2) A color photograph of the applicant that was taken within 619  
thirty days prior to the date of the application; 620

(3) One or more of the following competency certifications, 621  
each of which shall reflect that, regarding a certification 622  
described in division (B)(3)(a), (b), (c), (e), or (f) of this 623  
section, within the three years immediately preceding the 624  
application the applicant has performed that to which the 625  
competency certification relates and that, regarding a 626  
certification described in division (B)(3)(d) of this section, the 627  
applicant currently is an active or reserve member of the armed 628  
forces of the United States or within the six years immediately 629  
preceding the application the honorable discharge or retirement to 630  
which the competency certification relates occurred: 631

(a) An original or photocopy of a certificate of completion 632

of a firearms safety, training, or requalification or firearms 633  
safety instructor course, class, or program that was offered by or 634  
under the auspices of the national rifle association and that 635  
complies with the requirements set forth in division (G) of this 636  
section; 637

(b) An original or photocopy of a certificate of completion 638  
of a firearms safety, training, or requalification or firearms 639  
safety instructor course, class, or program that satisfies all of 640  
the following criteria: 641

(i) It was open to members of the general public. 642

(ii) It utilized qualified instructors who were certified by 643  
the national rifle association, the executive director of the Ohio 644  
peace officer training commission pursuant to section 109.75 or 645  
109.78 of the Revised Code, or a governmental official or entity 646  
of another state. 647

(iii) It was offered by or under the auspices of a law 648  
enforcement agency of this or another state or the United States, 649  
a public or private college, university, or other similar 650  
postsecondary educational institution located in this or another 651  
state, a firearms training school located in this or another 652  
state, or another type of public or private entity or organization 653  
located in this or another state. 654

(iv) It complies with the requirements set forth in division 655  
(G) of this section. 656

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

certificate of completion of a basic firearms training program, a 664  
firearms requalification training program, or another basic 665  
training program described in section 109.78 or 109.801 of the 666  
Revised Code that complies with the requirements set forth in 667  
division (G) of this section; 668

(d) A document that evidences both of the following: 669

(i) That the applicant is an active or reserve member of the 670  
armed forces of the United States, was honorably discharged from 671  
military service in the active or reserve armed forces of the 672  
United States, is a retired trooper of the state highway patrol, 673  
or is a retired peace officer or federal law enforcement officer 674  
described in division (B)(1) of this section or a retired person 675  
described in division (B)(1)(b) of section 109.77 of the Revised 676  
Code and division (B)(1) of this section; 677

(ii) That, through participation in the military service or 678  
through the former employment described in division (B)(3)(d)(i) 679  
of this section, the applicant acquired experience with handling 680  
handguns or other firearms, and the experience so acquired was 681  
equivalent to training that the applicant could have acquired in a 682  
course, class, or program described in division (B)(3)(a), (b), or 683  
(c) of this section. 684

(e) A certificate or another similar document that evidences 685  
satisfactory completion of a firearms training, safety, or 686  
requalification or firearms safety instructor course, class, or 687  
program that is not otherwise described in division (B)(3)(a), 688  
(b), (c), or (d) of this section, that was conducted by an 689  
instructor who was certified by an official or entity of the 690  
government of this or another state or the United States or by the 691  
national rifle association, and that complies with the 692  
requirements set forth in division (G) of this section; 693

(f) An affidavit that attests to the applicant's satisfactory 694

completion of a course, class, or program described in division 695  
(B)(3)(a), (b), (c), or (e) of this section and that is subscribed 696  
by the applicant's instructor or an authorized representative of 697  
the entity that offered the course, class, or program or under 698  
whose auspices the course, class, or program was offered. 699

(4) A certification by the applicant that the applicant has 700  
read the pamphlet prepared by the Ohio peace officer training 701  
commission pursuant to section 109.731 of the Revised Code that 702  
reviews firearms, dispute resolution, and use of deadly force 703  
matters. 704

(5) A set of fingerprints of the applicant provided as 705  
described in section 311.41 of the Revised Code through use of an 706  
electronic fingerprint reading device or, if the sheriff to whom 707  
the application is submitted does not possess and does not have 708  
ready access to the use of such a reading device, on a standard 709  
impression sheet prescribed pursuant to division (C)(2) of section 710  
109.572 of the Revised Code. 711

(C) Upon receipt of the completed application form, 712  
supporting documentation, and, if not waived, license fee of an 713  
applicant under this section, a sheriff, in the manner specified 714  
in section 311.41 of the Revised Code, shall conduct or cause to 715  
be conducted the criminal records check and the incompetency 716  
records check described in section 311.41 of the Revised Code. 717

(D)(1) Except as provided in division (D)(3) or (4) of this 718  
section, within forty-five days after a sheriff's receipt of an 719  
applicant's completed application form for a concealed handgun 720  
license under this section, the supporting documentation, and, if 721  
not waived, the license fee, the sheriff shall make available 722  
through the law enforcement automated data system in accordance 723  
with division (H) of this section the information described in 724  
that division and, upon making the information available through 725  
the system, shall issue to the applicant a concealed handgun 726



license that shall expire as described in division (D)(2)(a) of 727  
this section if all of the following apply: 728

(a) The applicant is legally living in the United States, has 729  
been a resident of this state for at least forty-five days, and 730  
has been a resident of the county in which the person seeks the 731  
license or a county adjacent to the county in which the person 732  
seeks the license for at least thirty days. For purposes of 733  
division (D)(1)(a) of this section: 734

(i) If a person is absent from the United States, from this 735  
state, or from a particular county in this state in compliance 736  
with military or naval orders as an active or reserve member of 737  
the armed forces of the United States and if prior to leaving this 738  
state in compliance with those orders the person was legally 739  
living in the United States and was a resident of this state, the 740  
person, solely by reason of that absence, shall not be considered 741  
to have lost the person's status as living in the United States or 742  
the person's residence in this state or in the county in which the 743  
person was a resident prior to leaving this state in compliance 744  
with those orders, without regard to whether or not the person 745  
intends to return to this state or to that county, shall not be 746  
considered to have acquired a residence in any other state, and 747  
shall not be considered to have become a resident of any other 748  
state. 749

(ii) If a person is present in this state in compliance with 750  
military or naval orders as an active or reserve member of the 751  
armed forces of the United States for at least forty-five days, 752  
the person shall be considered to have been a resident of this 753  
state for that period of at least forty-five days, and, if a 754  
person is present in a county of this state in compliance with 755  
military or naval orders as an active or reserve member of the 756  
armed forces of the United States for at least thirty days, the 757  
person shall be considered to have been a resident of that county 758

for that period of at least thirty days. 759

(b) The applicant is at least twenty-one years of age. 760

(c) The applicant is not a fugitive from justice. 761

(d) The applicant is not under indictment for or otherwise 762  
charged with a felony; an offense under Chapter 2925., 3719., or 763  
4729. of the Revised Code that involves the illegal possession, 764  
use, sale, administration, or distribution of or trafficking in a 765  
drug of abuse; a misdemeanor offense of violence; or a violation 766  
of section 2903.14 or 2923.1211 of the Revised Code. 767

(e) Except as otherwise provided in division (D)(5) of this 768  
section, the applicant has not been convicted of or pleaded guilty 769  
to a felony or an offense under Chapter 2925., 3719., or 4729. of 770  
the Revised Code that involves the illegal possession, use, sale, 771  
administration, or distribution of or trafficking in a drug of 772  
abuse; has not been adjudicated a delinquent child for committing 773  
an act that if committed by an adult would be a felony or would be 774  
an offense under Chapter 2925., 3719., or 4729. of the Revised 775  
Code that involves the illegal possession, use, sale, 776  
administration, or distribution of or trafficking in a drug of 777  
abuse; and has not been convicted of, pleaded guilty to, or 778  
adjudicated a delinquent child for committing a violation of 779  
section 2903.13 of the Revised Code when the victim of the 780  
violation is a peace officer, regardless of whether the applicant 781  
was sentenced under division (C)(3) of that section. 782

(f) Except as otherwise provided in division (D)(5) of this 783  
section, the applicant, within three years of the date of the 784  
application, has not been convicted of or pleaded guilty to a 785  
misdemeanor offense of violence other than a misdemeanor violation 786  
of section 2921.33 of the Revised Code or a violation of section 787  
2903.13 of the Revised Code when the victim of the violation is a 788  
peace officer, or a misdemeanor violation of section 2923.1211 of 789

the Revised Code; and has not been adjudicated a delinquent child 790  
for committing an act that if committed by an adult would be a 791  
misdemeanor offense of violence other than a misdemeanor violation 792  
of section 2921.33 of the Revised Code or a violation of section 793  
2903.13 of the Revised Code when the victim of the violation is a 794  
peace officer or for committing an act that if committed by an 795  
adult would be a misdemeanor violation of section 2923.1211 of the 796  
Revised Code. 797

(g) Except as otherwise provided in division (D)(1)(e) of 798  
this section, the applicant, within five years of the date of the 799  
application, has not been convicted of, pleaded guilty to, or 800  
adjudicated a delinquent child for committing two or more 801  
violations of section 2903.13 or 2903.14 of the Revised Code. 802

(h) Except as otherwise provided in division (D)(5) of this 803  
section, the applicant, within ten years of the date of the 804  
application, has not been convicted of, pleaded guilty to, or 805  
adjudicated a delinquent child for committing a violation of 806  
section 2921.33 of the Revised Code. 807

(i) The applicant has not been adjudicated as a mental 808  
defective, has not been committed to any mental institution, is 809  
not under adjudication of mental incompetence, has not been found 810  
by a court to be a mentally ill person subject to ~~hospitalization~~ 811  
~~by~~ court order, and is not an involuntary patient other than one 812  
who is a patient only for purposes of observation. As used in this 813  
division, "mentally ill person subject to ~~hospitalization~~ by court 814  
order" and "patient" have the same meanings as in section 5122.01 815  
of the Revised Code. 816

(j) The applicant is not currently subject to a civil 817  
protection order, a temporary protection order, or a protection 818  
order issued by a court of another state. 819

(k) The applicant certifies that the applicant desires a 820

legal means to carry a concealed handgun for defense of the 821  
applicant or a member of the applicant's family while engaged in 822  
lawful activity. 823

(l) The applicant submits a competency certification of the 824  
type described in division (B)(3) of this section and submits a 825  
certification of the type described in division (B)(4) of this 826  
section regarding the applicant's reading of the pamphlet prepared 827  
by the Ohio peace officer training commission pursuant to section 828  
109.731 of the Revised Code. 829

(m) The applicant currently is not subject to a suspension 830  
imposed under division (A)(2) of section 2923.128 of the Revised 831  
Code of a concealed handgun license that previously was issued to 832  
the applicant under this section or section 2923.1213 of the 833  
Revised Code. 834

(2)(a) A concealed handgun license that a sheriff issues 835  
under division (D)(1) of this section shall expire five years 836  
after the date of issuance. 837

If a sheriff issues a license under this section, the sheriff 838  
shall place on the license a unique combination of letters and 839  
numbers identifying the license in accordance with the procedure 840  
prescribed by the Ohio peace officer training commission pursuant 841  
to section 109.731 of the Revised Code. 842

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

applicant challenges the criminal records check results using the 852  
appropriate challenge and review procedure specified in that 853  
section, the time for filing the appeal pursuant to section 119.12 854  
of the Revised Code and this division is tolled during the 855  
pendency of the request or the challenge and review. If the court 856  
in an appeal under section 119.12 of the Revised Code and this 857  
division enters a judgment sustaining the sheriff's refusal to 858  
grant to the applicant a concealed handgun license, the applicant 859  
may file a new application beginning one year after the judgment 860  
is entered. If the court enters a judgment in favor of the 861  
applicant, that judgment shall not restrict the authority of a 862  
sheriff to suspend or revoke the license pursuant to section 863  
2923.128 or 2923.1213 of the Revised Code or to refuse to renew 864  
the license for any proper cause that may occur after the date the 865  
judgment is entered. In the appeal, the court shall have full 866  
power to dispose of all costs. 867

(3) If the sheriff with whom an application for a concealed 868  
handgun license was filed under this section becomes aware that 869  
the applicant has been arrested for or otherwise charged with an 870  
offense that would disqualify the applicant from holding the 871  
license, the sheriff shall suspend the processing of the 872  
application until the disposition of the case arising from the 873  
arrest or charge. 874

(4) If the sheriff determines that the applicant is legally 875  
living in the United States and is a resident of the county in 876  
which the applicant seeks the license or of an adjacent county but 877  
does not yet meet the residency requirements described in division 878  
(D)(1)(a) of this section, the sheriff shall not deny the license 879  
because of the residency requirements but shall not issue the 880  
license until the applicant meets those residency requirements. 881

(5) If an applicant has been convicted of or pleaded guilty 882  
to an offense identified in division (D)(1)(e), (f), or (h) of 883

this section or has been adjudicated a delinquent child for 884  
committing an act or violation identified in any of those 885  
divisions, and if a court has ordered the sealing or expungement 886  
of the records of that conviction, guilty plea, or adjudication 887  
pursuant to sections 2151.355 to 2151.358, sections 2953.31 to 888  
2953.36, or section 2953.37 of the Revised Code or a court has 889  
granted the applicant relief pursuant to section 2923.14 of the 890  
Revised Code from the disability imposed pursuant to section 891  
2923.13 of the Revised Code relative to that conviction, guilty 892  
plea, or adjudication, the sheriff with whom the application was 893  
submitted shall not consider the conviction, guilty plea, or 894  
adjudication in making a determination under division (D)(1) or 895  
(F) of this section or, in relation to an application for a 896  
concealed handgun license on a temporary emergency basis submitted 897  
under section 2923.1213 of the Revised Code, in making a 898  
determination under division (B)(2) of that section. 899

(E) If a concealed handgun license issued under this section 900  
is lost or is destroyed, the licensee may obtain from the sheriff 901  
who issued that license a duplicate license upon the payment of a 902  
fee of fifteen dollars and the submission of an affidavit 903  
attesting to the loss or destruction of the license. The sheriff, 904  
in accordance with the procedures prescribed in section 109.731 of 905  
the Revised Code, shall place on the replacement license a 906  
combination of identifying numbers different from the combination 907  
on the license that is being replaced. 908

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

certification by the applicant that, subsequent to the issuance of 916  
the license, the applicant has reread the pamphlet prepared by the 917  
Ohio peace officer training commission pursuant to section 109.731 918  
of the Revised Code that reviews firearms, dispute resolution, and 919  
use of deadly force matters, and a nonrefundable license renewal 920  
fee in an amount determined pursuant to division (F)(4) of this 921  
section unless the fee is waived. 922

(2) A sheriff shall accept a completed renewal application, 923  
the license renewal fee, and the information specified in division 924  
(F)(1) of this section at the times and in the manners described 925  
in division (I) of this section. Upon receipt of a completed 926  
renewal application, of certification that the applicant has 927  
reread the specified pamphlet prepared by the Ohio peace officer 928  
training commission, and of a license renewal fee unless the fee 929  
is waived, a sheriff, in the manner specified in section 311.41 of 930  
the Revised Code shall conduct or cause to be conducted the 931  
criminal records check and the incompetency records check 932  
described in section 311.41 of the Revised Code. The sheriff shall 933  
renew the license if the sheriff determines that the applicant 934  
continues to satisfy the requirements described in division (D)(1) 935  
of this section, except that the applicant is not required to meet 936  
the requirements of division (D)(1)(1) of this section. A renewed 937  
license shall expire five years after the date of issuance. A 938  
renewed license is subject to division (E) of this section and 939  
sections 2923.126 and 2923.128 of the Revised Code. A sheriff 940  
shall comply with divisions (D)(2) to (4) of this section when the 941  
circumstances described in those divisions apply to a requested 942  
license renewal. If a sheriff denies the renewal of a concealed 943  
handgun license, the applicant may appeal the denial, or challenge 944  
the criminal record check results that were the basis of the 945  
denial if applicable, in the same manner as specified in division 946  
(D)(2)(b) of this section and in section 2923.127 of the Revised 947  
Code, regarding the denial of a license under this section. 948

(3) A renewal application submitted pursuant to division (F) 949  
of this section shall only require the licensee to list on the 950  
application form information and matters occurring since the date 951  
of the licensee's last application for a license pursuant to 952  
division (B) or (F) of this section. A sheriff conducting the 953  
criminal records check and the incompetency records check 954  
described in section 311.41 of the Revised Code shall conduct the 955  
check only from the date of the licensee's last application for a 956  
license pursuant to division (B) or (F) of this section through 957  
the date of the renewal application submitted pursuant to division 958  
(F) of this section. 959

(4) An applicant for a renewal concealed handgun license 960  
under this section shall submit to the sheriff of the county in 961  
which the applicant resides or to the sheriff of any county 962  
adjacent to the county in which the applicant resides a 963  
nonrefundable license fee as described in either of the following: 964

(a) For an applicant who has been a resident of this state 965  
for five or more years, a fee of fifty dollars; 966

(b) For an applicant who has been a resident of this state 967  
for less than five years, a fee of fifty dollars plus the actual 968  
cost of having a background check performed by the federal bureau 969  
of investigation. 970

(G)(1) Each course, class, or program described in division 971  
(B)(3)(a), (b), (c), or (e) of this section shall provide to each 972  
person who takes the course, class, or program the web site 973  
address at which the pamphlet prepared by the Ohio peace officer 974  
training commission pursuant to section 109.731 of the Revised 975  
Code that reviews firearms, dispute resolution, and use of deadly 976  
force matters may be found. Each such course, class, or program 977  
described in one of those divisions shall include at least twelve 978  
hours of training in the safe handling and use of a firearm that 979  
shall include all of the following: 980



(a) At least ten hours of training on the following matters:	981
(i) The ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and ammunition;	982 983 984
(ii) The ability to demonstrate and explain how to handle ammunition in a safe manner;	985 986
(iii) The ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner;	987 988
(iv) Gun handling training.	989
(b) At least two hours of training that consists of range time and live-fire training.	990 991
(2) To satisfactorily complete the course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section, the applicant shall pass a competency examination that shall include both of the following:	992 993 994 995
(a) A written section on the ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition;	996 997 998
(b) A physical demonstration of competence in the use of a handgun and in the rules for safe handling and storage of a handgun and a physical demonstration of the attitude necessary to shoot a handgun in a safe manner.	999 1000 1001 1002
(3) The competency certification described in division (B)(3)(a), (b), (c), or (e) of this section shall be dated and shall attest that the course, class, or program the applicant successfully completed met the requirements described in division (G)(1) of this section and that the applicant passed the competency examination described in division (G)(2) of this section.	1003 1004 1005 1006 1007 1008 1009
(H) Upon deciding to issue a concealed handgun license,	1010

deciding to issue a replacement concealed handgun license, or 1011  
deciding to renew a concealed handgun license pursuant to this 1012  
section, and before actually issuing or renewing the license, the 1013  
sheriff shall make available through the law enforcement automated 1014  
data system all information contained on the license. If the 1015  
license subsequently is suspended under division (A)(1) or (2) of 1016  
section 2923.128 of the Revised Code, revoked pursuant to division 1017  
(B)(1) of section 2923.128 of the Revised Code, or lost or 1018  
destroyed, the sheriff also shall make available through the law 1019  
enforcement automated data system a notation of that fact. The 1020  
superintendent of the state highway patrol shall ensure that the 1021  
law enforcement automated data system is so configured as to 1022  
permit the transmission through the system of the information 1023  
specified in this division. 1024

(I) A sheriff shall accept a completed application form or 1025  
renewal application, and the fee, items, materials, and 1026  
information specified in divisions (B)(1) to (5) or division (F) 1027  
of this section, whichever is applicable, and shall provide an 1028  
application form or renewal application to any person during at 1029  
least fifteen hours a week and shall provide the web site address 1030  
at which the pamphlet described in division (B) of section 109.731 1031  
of the Revised Code may be found at any time, upon request. The 1032  
sheriff shall post notice of the hours during which the sheriff is 1033  
available to accept or provide the information described in this 1034  
division. 1035

**Sec. 2923.1213.** (A) As used in this section: 1036

(1) "Evidence of imminent danger" means any of the following: 1037

(a) A statement sworn by the person seeking to carry a 1038  
concealed handgun that is made under threat of perjury and that 1039  
states that the person has reasonable cause to fear a criminal 1040  
attack upon the person or a member of the person's family, such as 1041

would justify a prudent person in going armed; 1042

(b) A written document prepared by a governmental entity or 1043  
public official describing the facts that give the person seeking 1044  
to carry a concealed handgun reasonable cause to fear a criminal 1045  
attack upon the person or a member of the person's family, such as 1046  
would justify a prudent person in going armed. Written documents 1047  
of this nature include, but are not limited to, any temporary 1048  
protection order, civil protection order, protection order issued 1049  
by another state, or other court order, any court report, and any 1050  
report filed with or made by a law enforcement agency or 1051  
prosecutor. 1052

(2) "Prosecutor" has the same meaning as in section 2935.01 1053  
of the Revised Code. 1054

(B)(1) A person seeking a concealed handgun license on a 1055  
temporary emergency basis shall submit to the sheriff of the 1056  
county in which the person resides all of the following: 1057

(a) Evidence of imminent danger to the person or a member of 1058  
the person's family; 1059

(b) A sworn affidavit that contains all of the information 1060  
required to be on the license and attesting that the person is 1061  
legally living in the United States; is at least twenty-one years 1062  
of age; is not a fugitive from justice; is not under indictment 1063  
for or otherwise charged with an offense identified in division 1064  
(D)(1)(d) of section 2923.125 of the Revised Code; has not been 1065  
convicted of or pleaded guilty to an offense, and has not been 1066  
adjudicated a delinquent child for committing an act, identified 1067  
in division (D)(1)(e) of that section and to which division (B)(3) 1068  
of this section does not apply; within three years of the date of 1069  
the submission, has not been convicted of or pleaded guilty to an 1070  
offense, and has not been adjudicated a delinquent child for 1071  
committing an act, identified in division (D)(1)(f) of that 1072

section and to which division (B)(3) of this section does not 1073  
apply; within five years of the date of the submission, has not 1074  
been convicted of, pleaded guilty, or adjudicated a delinquent 1075  
child for committing two or more violations identified in division 1076  
(D)(1)(g) of that section; within ten years of the date of the 1077  
submission, has not been convicted of, pleaded guilty, or 1078  
adjudicated a delinquent child for committing a violation 1079  
identified in division (D)(1)(h) of that section and to which 1080  
division (B)(3) of this section does not apply; has not been 1081  
adjudicated as a mental defective, has not been committed to any 1082  
mental institution, is not under adjudication of mental 1083  
incompetence, has not been found by a court to be a mentally ill 1084  
person subject to ~~hospitalization by~~ court order, and is not an 1085  
involuntary patient other than one who is a patient only for 1086  
purposes of observation, as described in division (D)(1)(i) of 1087  
that section; is not currently subject to a civil protection 1088  
order, a temporary protection order, or a protection order issued 1089  
by a court of another state, as described in division (D)(1)(j) of 1090  
that section; and is not currently subject to a suspension imposed 1091  
under division (A)(2) of section 2923.128 of the Revised Code of a 1092  
concealed handgun license that previously was issued to the 1093  
person; 1094

(c) A nonrefundable temporary emergency license fee as 1095  
described in either of the following: 1096

(i) For an applicant who has been a resident of this state 1097  
for five or more years, a fee of fifteen dollars plus the actual 1098  
cost of having a background check performed by the bureau of 1099  
criminal identification and investigation pursuant to section 1100  
311.41 of the Revised Code; 1101

(ii) For an applicant who has been a resident of this state 1102  
for less than five years, a fee of fifteen dollars plus the actual 1103  
cost of having background checks performed by the federal bureau 1104

of investigation and the bureau of criminal identification and 1105  
investigation pursuant to section 311.41 of the Revised Code. 1106

(d) A set of fingerprints of the applicant provided as 1107  
described in section 311.41 of the Revised Code through use of an 1108  
electronic fingerprint reading device or, if the sheriff to whom 1109  
the application is submitted does not possess and does not have 1110  
ready access to the use of an electronic fingerprint reading 1111  
device, on a standard impression sheet prescribed pursuant to 1112  
division (C)(2) of section 109.572 of the Revised Code. If the 1113  
fingerprints are provided on a standard impression sheet, the 1114  
person also shall provide the person's social security number to 1115  
the sheriff. 1116

(2) A sheriff shall accept the evidence of imminent danger, 1117  
the sworn affidavit, the fee, and the set of fingerprints required 1118  
under division (B)(1) of this section at the times and in the 1119  
manners described in division (I) of this section. Upon receipt of 1120  
the evidence of imminent danger, the sworn affidavit, the fee, and 1121  
the set of fingerprints required under division (B)(1) of this 1122  
section, the sheriff, in the manner specified in section 311.41 of 1123  
the Revised Code, immediately shall conduct or cause to be 1124  
conducted the criminal records check and the incompetency records 1125  
check described in section 311.41 of the Revised Code. Immediately 1126  
upon receipt of the results of the records checks, the sheriff 1127  
shall review the information and shall determine whether the 1128  
criteria set forth in divisions (D)(1)(a) to (j) and (m) of 1129  
section 2923.125 of the Revised Code apply regarding the person. 1130  
If the sheriff determines that all of criteria set forth in 1131  
divisions (D)(1)(a) to (j) and (m) of section 2923.125 of the 1132  
Revised Code apply regarding the person, the sheriff shall 1133  
immediately make available through the law enforcement automated 1134  
data system all information that will be contained on the 1135  
temporary emergency license for the person if one is issued, and 1136

the superintendent of the state highway patrol shall ensure that 1137  
the system is so configured as to permit the transmission through 1138  
the system of that information. Upon making that information 1139  
available through the law enforcement automated data system, the 1140  
sheriff shall immediately issue to the person a concealed handgun 1141  
license on a temporary emergency basis. 1142

If the sheriff denies the issuance of a license on a 1143  
temporary emergency basis to the person, the sheriff shall specify 1144  
the grounds for the denial in a written notice to the person. The 1145  
person may appeal the denial, or challenge criminal records check 1146  
results that were the basis of the denial if applicable, in the 1147  
same manners specified in division (D)(2) of section 2923.125 and 1148  
in section 2923.127 of the Revised Code, regarding the denial of 1149  
an application for a concealed handgun license under that section. 1150

The license on a temporary emergency basis issued under this 1151  
division shall be in the form, and shall include all of the 1152  
information, described in divisions (A)(2) and (5) of section 1153  
109.731 of the Revised Code, and also shall include a unique 1154  
combination of identifying letters and numbers in accordance with 1155  
division (A)(4) of that section. 1156

The license on a temporary emergency basis issued under this 1157  
division is valid for ninety days and may not be renewed. A person 1158  
who has been issued a license on a temporary emergency basis under 1159  
this division shall not be issued another license on a temporary 1160  
emergency basis unless at least four years has expired since the 1161  
issuance of the prior license on a temporary emergency basis. 1162

(3) If a person seeking a concealed handgun license on a 1163  
temporary emergency basis has been convicted of or pleaded guilty 1164  
to an offense identified in division (D)(1)(e), (f), or (h) of 1165  
section 2923.125 of the Revised Code or has been adjudicated a 1166  
delinquent child for committing an act or violation identified in 1167  
any of those divisions, and if a court has ordered the sealing or 1168

expungement of the records of that conviction, guilty plea, or 1169  
adjudication pursuant to sections 2151.355 to 2151.358 or sections 1170  
2953.31 to 2953.36 of the Revised Code or a court has granted the 1171  
applicant relief pursuant to section 2923.14 of the Revised Code 1172  
from the disability imposed pursuant to section 2923.13 of the 1173  
Revised Code relative to that conviction, guilty plea, or 1174  
adjudication, the conviction, guilty plea, or adjudication shall 1175  
not be relevant for purposes of the sworn affidavit described in 1176  
division (B)(1)(b) of this section, and the person may complete, 1177  
and swear to the truth of, the affidavit as if the conviction, 1178  
guilty plea, or adjudication never had occurred. 1179

(4) The sheriff shall waive the payment pursuant to division 1180  
(B)(1)(c) of this section of the license fee in connection with an 1181  
application that is submitted by an applicant who is a retired 1182  
peace officer, a retired person described in division (B)(1)(b) of 1183  
section 109.77 of the Revised Code, or a retired federal law 1184  
enforcement officer who, prior to retirement, was authorized under 1185  
federal law to carry a firearm in the course of duty, unless the 1186  
retired peace officer, person, or federal law enforcement officer 1187  
retired as the result of a mental disability. 1188

The sheriff shall deposit all fees paid by an applicant under 1189  
division (B)(1)(c) of this section into the sheriff's concealed 1190  
handgun license issuance fund established pursuant to section 1191  
311.42 of the Revised Code. 1192

(C) A person who holds a concealed handgun license on a 1193  
temporary emergency basis has the same right to carry a concealed 1194  
handgun as a person who was issued a concealed handgun license 1195  
under section 2923.125 of the Revised Code, and any exceptions to 1196  
the prohibitions contained in section 1547.69 and sections 2923.12 1197  
to 2923.16 of the Revised Code for a licensee under section 1198  
2923.125 of the Revised Code apply to a licensee under this 1199  
section. The person is subject to the same restrictions, and to 1200

all other procedures, duties, and sanctions, that apply to a 1201  
person who carries a license issued under section 2923.125 of the 1202  
Revised Code, other than the license renewal procedures set forth 1203  
in that section. 1204

(D) A sheriff who issues a concealed handgun license on a 1205  
temporary emergency basis under this section shall not require a 1206  
person seeking to carry a concealed handgun in accordance with 1207  
this section to submit a competency certificate as a prerequisite 1208  
for issuing the license and shall comply with division (H) of 1209  
section 2923.125 of the Revised Code in regards to the license. 1210  
The sheriff shall suspend or revoke the license in accordance with 1211  
section 2923.128 of the Revised Code. In addition to the 1212  
suspension or revocation procedures set forth in section 2923.128 1213  
of the Revised Code, the sheriff may revoke the license upon 1214  
receiving information, verifiable by public documents, that the 1215  
person is not eligible to possess a firearm under either the laws 1216  
of this state or of the United States or that the person committed 1217  
perjury in obtaining the license; if the sheriff revokes a license 1218  
under this additional authority, the sheriff shall notify the 1219  
person, by certified mail, return receipt requested, at the 1220  
person's last known residence address that the license has been 1221  
revoked and that the person is required to surrender the license 1222  
at the sheriff's office within ten days of the date on which the 1223  
notice was mailed. Division (H) of section 2923.125 of the Revised 1224  
Code applies regarding any suspension or revocation of a concealed 1225  
handgun license on a temporary emergency basis. 1226

(E) A sheriff who issues a concealed handgun license on a 1227  
temporary emergency basis under this section shall retain, for the 1228  
entire period during which the license is in effect, the evidence 1229  
of imminent danger that the person submitted to the sheriff and 1230  
that was the basis for the license, or a copy of that evidence, as 1231  
appropriate. 1232



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

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

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

(I) A sheriff shall accept evidence of imminent danger, a sworn affidavit, the fee, and the set of fingerprints specified in division (B)(1) of this section at any time during normal business hours. In no case shall a sheriff require an appointment, or designate a specific period of time, for the submission or acceptance of evidence of imminent danger, a sworn affidavit, the fee, and the set of fingerprints specified in division (B)(1) of this section, or for the provision to any person of a standard 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 1264  
acquire, have, carry, or use any firearm or dangerous ordnance, if 1265  
any of the following apply: 1266

(1) The person is a fugitive from justice. 1267

(2) The person is under indictment for or has been convicted 1268  
of any felony offense of violence or has been adjudicated a 1269  
delinquent child for the commission of an offense that, if 1270  
committed by an adult, would have been a felony offense of 1271  
violence. 1272

(3) The person is under indictment for or has been convicted 1273  
of any felony offense involving the illegal possession, use, sale, 1274  
administration, distribution, or trafficking in any drug of abuse 1275  
or has been adjudicated a delinquent child for the commission of 1276  
an offense that, if committed by an adult, would have been a 1277  
felony offense involving the illegal possession, use, sale, 1278  
administration, distribution, or trafficking in any drug of abuse. 1279

(4) The person is drug dependent, in danger of drug 1280  
dependence, or a chronic alcoholic. 1281

(5) The person is under adjudication of mental incompetence, 1282  
has been adjudicated as a mental defective, has been committed to 1283  
a mental institution, has been found by a court to be a mentally 1284  
ill person subject to ~~hospitalization by~~ court order, or is an 1285  
involuntary patient other than one who is a patient only for 1286  
purposes of observation. As used in this division, "mentally ill 1287  
person subject to ~~hospitalization by~~ court order" and "patient" 1288  
have the same meanings as in section 5122.01 of the Revised Code. 1289

(B) Whoever violates this section is guilty of having weapons 1290  
while under disability, a felony of the third degree. 1291

**Sec. 2945.37.** (A) As used in sections 2945.37 to 2945.402 of 1292  
the Revised Code: 1293

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

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

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

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

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

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

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

times. 1325

(6) "Conditional release" means a commitment status under 1326  
which the trial court at any time may revoke a person's 1327  
conditional release and order the rehospitalization or 1328  
reinstitutionalization of the person as described in division (A) 1329  
of section 2945.402 of the Revised Code and pursuant to which a 1330  
person who is found incompetent to stand trial or a person who is 1331  
found not guilty by reason of insanity lives and receives 1332  
treatment in the community for a period of time that does not 1333  
exceed the maximum prison term or term of imprisonment that the 1334  
person could have received for the offense in question had the 1335  
person been convicted of the offense instead of being found 1336  
incompetent to stand trial on the charge of the offense or being 1337  
found not guilty by reason of insanity relative to the offense. 1338

(7) "Licensed clinical psychologist," "mentally ill person 1339  
subject to ~~hospitalization~~ by court order," and "psychiatrist" 1340  
have the same meanings as in section 5122.01 of the Revised Code. 1341

(8) "Mentally retarded person subject to institutionalization 1342  
by court order" has the same meaning as in section 5123.01 of the 1343  
Revised Code. 1344

(B) In a criminal action in a court of common pleas, a county 1345  
court, or a municipal court, the court, prosecutor, or defense may 1346  
raise the issue of the defendant's competence to stand trial. If 1347  
the issue is raised before the trial has commenced, the court 1348  
shall hold a hearing on the issue as provided in this section. If 1349  
the issue is raised after the trial has commenced, the court shall 1350  
hold a hearing on the issue only for good cause shown or on the 1351  
court's own motion. 1352

(C) The court shall conduct the hearing required or 1353  
authorized under division (B) of this section within thirty days 1354  
after the issue is raised, unless the defendant has been referred 1355

for evaluation in which case the court shall conduct the hearing 1356  
within ten days after the filing of the report of the evaluation 1357  
or, in the case of a defendant who is ordered by the court 1358  
pursuant to division (H) of section 2945.371 of the Revised Code 1359  
to undergo a separate mental retardation evaluation conducted by a 1360  
psychologist designated by the director of developmental 1361  
disabilities, within ten days after the filing of the report of 1362  
the separate mental retardation evaluation under that division. A 1363  
hearing may be continued for good cause. 1364

(D) The defendant shall be represented by counsel at the 1365  
hearing conducted under division (C) of this section. If the 1366  
defendant is unable to obtain counsel, the court shall appoint 1367  
counsel under Chapter 120. of the Revised Code or under the 1368  
authority recognized in division (C) of section 120.06, division 1369  
(E) of section 120.16, division (E) of section 120.26, or section 1370  
2941.51 of the Revised Code before proceeding with the hearing. 1371

(E) The prosecutor and defense counsel may submit evidence on 1372  
the issue of the defendant's competence to stand trial. A written 1373  
report of the evaluation of the defendant may be admitted into 1374  
evidence at the hearing by stipulation, but, if either the 1375  
prosecution or defense objects to its admission, the report may be 1376  
admitted under sections 2317.36 to 2317.38 of the Revised Code or 1377  
any other applicable statute or rule. 1378

(F) The court shall not find a defendant incompetent to stand 1379  
trial solely because the defendant is receiving or has received 1380  
treatment as a voluntary or involuntary mentally ill patient under 1381  
Chapter 5122. or a voluntary or involuntary mentally retarded 1382  
resident under Chapter 5123. of the Revised Code or because the 1383  
defendant is receiving or has received psychotropic drugs or other 1384  
medication, even if the defendant might become incompetent to 1385  
stand trial without the drugs or medication. 1386

(G) A defendant is presumed to be competent to stand trial. 1387

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

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

**Sec. 2945.38.** (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the

defendant's competence to stand trial, unless the defendant's 1420  
attending physician advises the court against continuation of the 1421  
drugs, other medication, or treatment. 1422

(B)(1)(a) If, after taking into consideration all relevant 1423  
reports, information, and other evidence, the court finds that the 1424  
defendant is incompetent to stand trial and that there is a 1425  
substantial probability that the defendant will become competent 1426  
to stand trial within one year if the defendant is provided with a 1427  
course of treatment, the court shall order the defendant to 1428  
undergo treatment. If the defendant has been charged with a felony 1429  
offense and if, after taking into consideration all relevant 1430  
reports, information, and other evidence, the court finds that the 1431  
defendant is incompetent to stand trial, but the court is unable 1432  
at that time to determine whether there is a substantial 1433  
probability that the defendant will become competent to stand 1434  
trial within one year if the defendant is provided with a course 1435  
of treatment, the court shall order continuing evaluation and 1436  
treatment of the defendant for a period not to exceed four months 1437  
to determine whether there is a substantial probability that the 1438  
defendant will become competent to stand trial within one year if 1439  
the defendant is provided with a course of treatment. 1440

(b) The court order for the defendant to undergo treatment or 1441  
continuing evaluation and treatment under division (B)(1)(a) of 1442  
this section shall specify that the defendant, if determined to 1443  
require mental health treatment or continuing evaluation and 1444  
treatment, either shall be committed to the department of mental 1445  
health for treatment or continuing evaluation and treatment at a 1446  
hospital, facility, or agency, as determined to be clinically 1447  
appropriate by the department of mental health or shall be 1448  
committed to a facility certified by the department of mental 1449  
health as being qualified to treat mental illness, to a public or 1450  
community mental health facility, or to a psychiatrist or another 1451

mental health professional for treatment or continuing evaluation 1452  
and treatment. Prior to placing the defendant, the department of 1453  
mental health shall obtain court approval for that placement 1454  
following a hearing. The court order for the defendant to undergo 1455  
treatment or continuing evaluation and treatment under division 1456  
(B)(1)(a) of this section shall specify that the defendant, if 1457  
determined to require treatment or continuing evaluation and 1458  
treatment for mental retardation, shall receive treatment or 1459  
continuing evaluation and treatment at an institution or facility 1460  
operated by the department of developmental disabilities, at a 1461  
facility certified by the department of developmental disabilities 1462  
as being qualified to treat mental retardation, at a public or 1463  
private mental retardation facility, or by a psychiatrist or 1464  
another mental retardation professional. In any case, the order 1465  
may restrict the defendant's freedom of movement as the court 1466  
considers necessary. The prosecutor in the defendant's case shall 1467  
send to the chief clinical officer of the hospital, facility, or 1468  
agency where the defendant is placed by the department of mental 1469  
health, or to the managing officer of the institution, the 1470  
director of the program or facility, or the person to which the 1471  
defendant is committed, copies of relevant police reports and 1472  
other background information that pertains to the defendant and is 1473  
available to the prosecutor unless the prosecutor determines that 1474  
the release of any of the information in the police reports or any 1475  
of the other background information to unauthorized persons would 1476  
interfere with the effective prosecution of any person or would 1477  
create a substantial risk of harm to any person. 1478

In determining the place of commitment, the court shall 1479  
consider the extent to which the person is a danger to the person 1480  
and to others, the need for security, and the type of crime 1481  
involved and shall order the least restrictive alternative 1482  
available that is consistent with public safety and treatment 1483  
goals. In weighing these factors, the court shall give preference 1484



to protecting public safety. 1485

(c) If the defendant is found incompetent to stand trial, if 1486  
the chief clinical officer of the hospital, facility, or agency 1487  
where the defendant is placed, or the managing officer of the 1488  
institution, the director of the program or facility, or the 1489  
person to which the defendant is committed for treatment or 1490  
continuing evaluation and treatment under division (B)(1)(b) of 1491  
this section determines that medication is necessary to restore 1492  
the defendant's competency to stand trial, and if the defendant 1493  
lacks the capacity to give informed consent or refuses medication, 1494  
the chief clinical officer of the hospital, facility, or agency 1495  
where the defendant is placed, or the managing officer of the 1496  
institution, the director of the program or facility, or the 1497  
person to which the defendant is committed for treatment or 1498  
continuing evaluation and treatment may petition the court for 1499  
authorization for the involuntary administration of medication. 1500  
The court shall hold a hearing on the petition within five days of 1501  
the filing of the petition if the petition was filed in a 1502  
municipal court or a county court regarding an incompetent 1503  
defendant charged with a misdemeanor or within ten days of the 1504  
filing of the petition if the petition was filed in a court of 1505  
common pleas regarding an incompetent defendant charged with a 1506  
felony offense. Following the hearing, the court may authorize the 1507  
involuntary administration of medication or may dismiss the 1508  
petition. 1509

(2) If the court finds that the defendant is incompetent to 1510  
stand trial and that, even if the defendant is provided with a 1511  
course of treatment, there is not a substantial probability that 1512  
the defendant will become competent to stand trial within one 1513  
year, the court shall order the discharge of the defendant, unless 1514  
upon motion of the prosecutor or on its own motion, the court 1515  
either seeks to retain jurisdiction over the defendant pursuant to 1516

section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to ~~hospitalization by~~ court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

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

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

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

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

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

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

(2) Six months, if the most serious offense with which the

defendant is charged is a felony other than a felony described in 1548  
division (C)(1) of this section; 1549

(3) Sixty days, if the most serious offense with which the 1550  
defendant is charged is a misdemeanor of the first or second 1551  
degree; 1552

(4) Thirty days, if the most serious offense with which the 1553  
defendant is charged is a misdemeanor of the third or fourth 1554  
degree, a minor misdemeanor, or an unclassified misdemeanor. 1555

(D) Any defendant who is committed pursuant to this section 1556  
shall not voluntarily admit the defendant or be voluntarily 1557  
admitted to a hospital or institution pursuant to section 5122.02, 1558  
5122.15, 5123.69, or 5123.76 of the Revised Code. 1559

(E) Except as otherwise provided in this division, a 1560  
defendant who is charged with an offense and is committed by the 1561  
court under this section to the department of mental health or is 1562  
committed to an institution or facility for the treatment of 1563  
mental retardation shall not be granted unsupervised on-grounds 1564  
movement, supervised off-grounds movement, or nonsecured status 1565  
except in accordance with the court order. The court may grant a 1566  
defendant supervised off-grounds movement to obtain medical 1567  
treatment or specialized habilitation treatment services if the 1568  
person who supervises the treatment or the continuing evaluation 1569  
and treatment of the defendant ordered under division (B)(1)(a) of 1570  
this section informs the court that the treatment or continuing 1571  
evaluation and treatment cannot be provided at the hospital or 1572  
facility where the defendant is placed by the department of mental 1573  
health or the institution or facility to which the defendant is 1574  
committed. The chief clinical officer of the hospital or facility 1575  
where the defendant is placed by the department of mental health 1576  
or the managing officer of the institution or director of the 1577  
facility to which the defendant is committed, or a designee of any 1578  
of those persons, may grant a defendant movement to a medical 1579

facility for an emergency medical situation with appropriate 1580  
supervision to ensure the safety of the defendant, staff, and 1581  
community during that emergency medical situation. The chief 1582  
clinical officer of the hospital or facility where the defendant 1583  
is placed by the department of mental health or the managing 1584  
officer of the institution or director of the facility to which 1585  
the defendant is committed shall notify the court within 1586  
twenty-four hours of the defendant's movement to the medical 1587  
facility for an emergency medical situation under this division. 1588

(F) The person who supervises the treatment or continuing 1589  
evaluation and treatment of a defendant ordered to undergo 1590  
treatment or continuing evaluation and treatment under division 1591  
(B)(1)(a) of this section shall file a written report with the 1592  
court at the following times: 1593

(1) Whenever the person believes the defendant is capable of 1594  
understanding the nature and objective of the proceedings against 1595  
the defendant and of assisting in the defendant's defense; 1596

(2) For a felony offense, fourteen days before expiration of 1597  
the maximum time for treatment as specified in division (C) of 1598  
this section and fourteen days before the expiration of the 1599  
maximum time for continuing evaluation and treatment as specified 1600  
in division (B)(1)(a) of this section, and, for a misdemeanor 1601  
offense, ten days before the expiration of the maximum time for 1602  
treatment, as specified in division (C) of this section; 1603

(3) At a minimum, after each six months of treatment; 1604

(4) Whenever the person who supervises the treatment or 1605  
continuing evaluation and treatment of a defendant ordered under 1606  
division (B)(1)(a) of this section believes that there is not a 1607  
substantial probability that the defendant will become capable of 1608  
understanding the nature and objective of the proceedings against 1609  
the defendant or of assisting in the defendant's defense even if 1610

the defendant is provided with a course of treatment. 1611

(G) A report under division (F) of this section shall contain 1612  
the examiner's findings, the facts in reasonable detail on which 1613  
the findings are based, and the examiner's opinion as to the 1614  
defendant's capability of understanding the nature and objective 1615  
of the proceedings against the defendant and of assisting in the 1616  
defendant's defense. If, in the examiner's opinion, the defendant 1617  
remains incapable of understanding the nature and objective of the 1618  
proceedings against the defendant and of assisting in the 1619  
defendant's defense and there is a substantial probability that 1620  
the defendant will become capable of understanding the nature and 1621  
objective of the proceedings against the defendant and of 1622  
assisting in the defendant's defense if the defendant is provided 1623  
with a course of treatment, if in the examiner's opinion the 1624  
defendant remains mentally ill or mentally retarded, and if the 1625  
maximum time for treatment as specified in division (C) of this 1626  
section has not expired, the report also shall contain the 1627  
examiner's recommendation as to the least restrictive placement or 1628  
commitment alternative that is consistent with the defendant's 1629  
treatment needs for restoration to competency and with the safety 1630  
of the community. The court shall provide copies of the report to 1631  
the prosecutor and defense counsel. 1632

(H) If a defendant is committed pursuant to division (B)(1) 1633  
of this section, within ten days after the treating physician of 1634  
the defendant or the examiner of the defendant who is employed or 1635  
retained by the treating facility advises that there is not a 1636  
substantial probability that the defendant will become capable of 1637  
understanding the nature and objective of the proceedings against 1638  
the defendant or of assisting in the defendant's defense even if 1639  
the defendant is provided with a course of treatment, within ten 1640  
days after the expiration of the maximum time for treatment as 1641  
specified in division (C) of this section, within ten days after 1642

the expiration of the maximum time for continuing evaluation and 1643  
treatment as specified in division (B)(1)(a) of this section, 1644  
within thirty days after a defendant's request for a hearing that 1645  
is made after six months of treatment, or within thirty days after 1646  
being advised by the treating physician or examiner that the 1647  
defendant is competent to stand trial, whichever is the earliest, 1648  
the court shall conduct another hearing to determine if the 1649  
defendant is competent to stand trial and shall do whichever of 1650  
the following is applicable: 1651

(1) If the court finds that the defendant is competent to 1652  
stand trial, the defendant shall be proceeded against as provided 1653  
by law. 1654

(2) If the court finds that the defendant is incompetent to 1655  
stand trial, but that there is a substantial probability that the 1656  
defendant will become competent to stand trial if the defendant is 1657  
provided with a course of treatment, and the maximum time for 1658  
treatment as specified in division (C) of this section has not 1659  
expired, the court, after consideration of the examiner's 1660  
recommendation, shall order that treatment be continued, may 1661  
change the facility or program at which the treatment is to be 1662  
continued, and shall specify whether the treatment is to be 1663  
continued at the same or a different facility or program. 1664

(3) If the court finds that the defendant is incompetent to 1665  
stand trial, if the defendant is charged with an offense listed in 1666  
division (C)(1) of this section, and if the court finds that there 1667  
is not a substantial probability that the defendant will become 1668  
competent to stand trial even if the defendant is provided with a 1669  
course of treatment, or if the maximum time for treatment relative 1670  
to that offense as specified in division (C) of this section has 1671  
expired, further proceedings shall be as provided in sections 1672  
2945.39, 2945.401, and 2945.402 of the Revised Code. 1673

(4) If the court finds that the defendant is incompetent to 1674

stand trial, if the most serious offense with which the defendant 1675  
is charged is a misdemeanor or a felony other than a felony listed 1676  
in division (C)(1) of this section, and if the court finds that 1677  
there is not a substantial probability that the defendant will 1678  
become competent to stand trial even if the defendant is provided 1679  
with a course of treatment, or if the maximum time for treatment 1680  
relative to that offense as specified in division (C) of this 1681  
section has expired, the court shall dismiss the indictment, 1682  
information, or complaint against the defendant. A dismissal under 1683  
this division is not a bar to further prosecution based on the 1684  
same conduct. The court shall discharge the defendant unless the 1685  
court or prosecutor files an affidavit in probate court for civil 1686  
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 1687  
If an affidavit for civil commitment is filed, the court may 1688  
detain the defendant for ten days pending civil commitment. All of 1689  
the following provisions apply to persons charged with a 1690  
misdemeanor or a felony other than a felony listed in division 1691  
(C)(1) of this section who are committed by the probate court 1692  
subsequent to the court's or prosecutor's filing of an affidavit 1693  
for civil commitment under authority of this division: 1694

(a) The chief clinical officer of the entity, hospital, or 1695  
facility, the managing officer of the institution, the director of 1696  
the program, or the person to which the defendant is committed or 1697  
admitted shall do all of the following: 1698

(i) Notify the prosecutor, in writing, of the discharge of 1699  
the defendant, send the notice at least ten days prior to the 1700  
discharge unless the discharge is by the probate court, and state 1701  
in the notice the date on which the defendant will be discharged; 1702

(ii) Notify the prosecutor, in writing, when the defendant is 1703  
absent without leave or is granted unsupervised, off-grounds 1704  
movement, and send this notice promptly after the discovery of the 1705  
absence without leave or prior to the granting of the 1706

unsupervised, off-grounds movement, whichever is applicable; 1707

(iii) Notify the prosecutor, in writing, of the change of the 1708  
defendant's commitment or admission to voluntary status, send the 1709  
notice promptly upon learning of the change to voluntary status, 1710  
and state in the notice the date on which the defendant was 1711  
committed or admitted on a voluntary status. 1712

(b) Upon receiving notice that the defendant will be granted 1713  
unsupervised, off-grounds movement, the prosecutor either shall 1714  
re-indict the defendant or promptly notify the court that the 1715  
prosecutor does not intend to prosecute the charges against the 1716  
defendant. 1717

(I) If a defendant is convicted of a crime and sentenced to a 1718  
jail or workhouse, the defendant's sentence shall be reduced by 1719  
the total number of days the defendant is confined for evaluation 1720  
to determine the defendant's competence to stand trial or 1721  
treatment under this section and sections 2945.37 and 2945.371 of 1722  
the Revised Code or by the total number of days the defendant is 1723  
confined for evaluation to determine the defendant's mental 1724  
condition at the time of the offense charged. 1725

**Sec. 2945.39.** (A) If a defendant who is charged with an 1726  
offense described in division (C)(1) of section 2945.38 of the 1727  
Revised Code is found incompetent to stand trial, after the 1728  
expiration of the maximum time for treatment as specified in 1729  
division (C) of that section or after the court finds that there 1730  
is not a substantial probability that the defendant will become 1731  
competent to stand trial even if the defendant is provided with a 1732  
course of treatment, one of the following applies: 1733

(1) The court or the prosecutor may file an affidavit in 1734  
probate court for civil commitment of the defendant in the manner 1735  
provided in Chapter 5122. or 5123. of the Revised Code. If the 1736  
court or prosecutor files an affidavit for civil commitment, the 1737



court may detain the defendant for ten days pending civil 1738  
commitment. If the probate court commits the defendant subsequent 1739  
to the court's or prosecutor's filing of an affidavit for civil 1740  
commitment, the chief clinical officer of the entity, hospital, or 1741  
facility, the managing officer of the institution, the director of 1742  
the program, or the person to which the defendant is committed or 1743  
admitted shall send to the prosecutor the notices described in 1744  
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 1745  
Code within the periods of time and under the circumstances 1746  
specified in those divisions. 1747

(2) On the motion of the prosecutor or on its own motion, the 1748  
court may retain jurisdiction over the defendant if, at a hearing, 1749  
the court finds both of the following by clear and convincing 1750  
evidence: 1751

(a) The defendant committed the offense with which the 1752  
defendant is charged. 1753

(b) The defendant is a mentally ill person subject to 1754  
~~hospitalization by~~ court order or a mentally retarded person 1755  
subject to institutionalization by court order. 1756

(B) In making its determination under division (A)(2) of this 1757  
section as to whether to retain jurisdiction over the defendant, 1758  
the court may consider all relevant evidence, including, but not 1759  
limited to, any relevant psychiatric, psychological, or medical 1760  
testimony or reports, the acts constituting the offense charged, 1761  
and any history of the defendant that is relevant to the 1762  
defendant's ability to conform to the law. 1763

(C) If the court conducts a hearing as described in division 1764  
(A)(2) of this section and if the court does not make both 1765  
findings described in divisions (A)(2)(a) and (b) of this section 1766  
by clear and convincing evidence, the court shall dismiss the 1767  
indictment, information, or complaint against the defendant. Upon 1768

the dismissal, the court shall discharge the defendant unless the 1769  
court or prosecutor files an affidavit in probate court for civil 1770  
commitment of the defendant pursuant to Chapter 5122. or 5123. of 1771  
the Revised Code. If the court or prosecutor files an affidavit 1772  
for civil commitment, the court may order that the defendant be 1773  
detained for up to ten days pending the civil commitment. If the 1774  
probate court commits the defendant subsequent to the court's or 1775  
prosecutor's filing of an affidavit for civil commitment, the 1776  
chief clinical officer of the entity, hospital, or facility, the 1777  
managing officer of the institution, the director of the program, 1778  
or the person to which the defendant is committed or admitted 1779  
shall send to the prosecutor the notices described in divisions 1780  
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 1781  
within the periods of time and under the circumstances specified 1782  
in those divisions. A dismissal of charges under this division is 1783  
not a bar to further criminal proceedings based on the same 1784  
conduct. 1785

(D)(1) If the court conducts a hearing as described in 1786  
division (A)(2) of this section and if the court makes the 1787  
findings described in divisions (A)(2)(a) and (b) of this section 1788  
by clear and convincing evidence, the court shall commit the 1789  
defendant, if determined to require mental health treatment, 1790  
either to the department of mental health for treatment at a 1791  
hospital, facility, or agency as determined clinically appropriate 1792  
by the department of mental health or to another medical or 1793  
psychiatric facility, as appropriate. Prior to placing the 1794  
defendant, the department of mental health shall obtain court 1795  
approval for that placement. If the court conducts such a hearing 1796  
and if it makes those findings by clear and convincing evidence, 1797  
the court shall commit the defendant, if determined to require 1798  
treatment for mental retardation, to a facility operated by the 1799  
department of developmental disabilities, or another facility, as 1800  
appropriate. In determining the place of commitment, the court 1801

shall consider the extent to which the person is a danger to the 1802  
person and to others, the need for security, and the type of crime 1803  
involved and shall order the least restrictive alternative 1804  
available that is consistent with public safety and the welfare of 1805  
the defendant. In weighing these factors, the court shall give 1806  
preference to protecting public safety. 1807

(2) If a court makes a commitment of a defendant under 1808  
division (D)(1) of this section, the prosecutor shall send to the 1809  
hospital, facility, or agency where the defendant is placed by the 1810  
department of mental health or to the defendant's place of 1811  
commitment all reports of the defendant's current mental condition 1812  
and, except as otherwise provided in this division, any other 1813  
relevant information, including, but not limited to, a transcript 1814  
of the hearing held pursuant to division (A)(2) of this section, 1815  
copies of relevant police reports, and copies of any prior arrest 1816  
and conviction records that pertain to the defendant and that the 1817  
prosecutor possesses. The prosecutor shall send the reports of the 1818  
defendant's current mental condition in every case of commitment, 1819  
and, unless the prosecutor determines that the release of any of 1820  
the other relevant information to unauthorized persons would 1821  
interfere with the effective prosecution of any person or would 1822  
create a substantial risk of harm to any person, the prosecutor 1823  
also shall send the other relevant information. Upon admission of 1824  
a defendant committed under division (D)(1) of this section, the 1825  
place of commitment shall send to the board of alcohol, drug 1826  
addiction, and mental health services or the community mental 1827  
health board serving the county in which the charges against the 1828  
defendant were filed a copy of all reports of the defendant's 1829  
current mental condition and a copy of the other relevant 1830  
information provided by the prosecutor under this division, 1831  
including, if provided, a transcript of the hearing held pursuant 1832  
to division (A)(2) of this section, the relevant police reports, 1833  
and the prior arrest and conviction records that pertain to the 1834

defendant and that the prosecutor possesses. 1835

(3) If a court makes a commitment under division (D)(1) of 1836  
this section, all further proceedings shall be in accordance with 1837  
sections 2945.401 and 2945.402 of the Revised Code. 1838

**Sec. 2945.40.** (A) If a person is found not guilty by reason 1839  
of insanity, the verdict shall state that finding, and the trial 1840  
court shall conduct a full hearing to determine whether the person 1841  
is a mentally ill person subject to ~~hospitalization by~~ court order 1842  
or a mentally retarded person subject to institutionalization by 1843  
court order. Prior to the hearing, if the trial judge believes 1844  
that there is probable cause that the person found not guilty by 1845  
reason of insanity is a mentally ill person subject to 1846  
~~hospitalization by~~ court order or mentally retarded person subject 1847  
to institutionalization by court order, the trial judge may issue 1848  
a temporary order of detention for that person to remain in effect 1849  
for ten court days or until the hearing, whichever occurs first. 1850

Any person detained pursuant to a temporary order of 1851  
detention issued under this division shall be held in a suitable 1852  
facility, taking into consideration the place and type of 1853  
confinement prior to and during trial. 1854

(B) The court shall hold the hearing under division (A) of 1855  
this section to determine whether the person found not guilty by 1856  
reason of insanity is a mentally ill person subject to 1857  
~~hospitalization by~~ court order or a mentally retarded person 1858  
subject to institutionalization by court order within ten court 1859  
days after the finding of not guilty by reason of insanity. 1860  
Failure to conduct the hearing within the ten-day period shall 1861  
cause the immediate discharge of the respondent, unless the judge 1862  
grants a continuance for not longer than ten court days for good 1863  
cause shown or for any period of time upon motion of the 1864  
respondent. 1865

(C) If a person is found not guilty by reason of insanity, 1866  
the person has the right to attend all hearings conducted pursuant 1867  
to sections 2945.37 to 2945.402 of the Revised Code. At any 1868  
hearing conducted pursuant to one of those sections, the court 1869  
shall inform the person that the person has all of the following 1870  
rights: 1871

(1) The right to be represented by counsel and to have that 1872  
counsel provided at public expense if the person is indigent, with 1873  
the counsel to be appointed by the court under Chapter 120. of the 1874  
Revised Code or under the authority recognized in division (C) of 1875  
section 120.06, division (E) of section 120.16, division (E) of 1876  
section 120.26, or section 2941.51 of the Revised Code; 1877

(2) The right to have independent expert evaluation and to 1878  
have that independent expert evaluation provided at public expense 1879  
if the person is indigent; 1880

(3) The right to subpoena witnesses and documents, to present 1881  
evidence on the person's behalf, and to cross-examine witnesses 1882  
against the person; 1883

(4) The right to testify in the person's own behalf and to 1884  
not be compelled to testify; 1885

(5) The right to have copies of any relevant medical or 1886  
mental health document in the custody of the state or of any place 1887  
of commitment other than a document for which the court finds that 1888  
the release to the person of information contained in the document 1889  
would create a substantial risk of harm to any person. 1890

(D) The hearing under division (A) of this section shall be 1891  
open to the public, and the court shall conduct the hearing in 1892  
accordance with the Rules of Civil Procedure. The court shall make 1893  
and maintain a full transcript and record of the hearing 1894  
proceedings. The court may consider all relevant evidence, 1895  
including, but not limited to, any relevant psychiatric, 1896

psychological, or medical testimony or reports, the acts 1897  
constituting the offense in relation to which the person was found 1898  
not guilty by reason of insanity, and any history of the person 1899  
that is relevant to the person's ability to conform to the law. 1900

(E) Upon completion of the hearing under division (A) of this 1901  
section, if the court finds there is not clear and convincing 1902  
evidence that the person is a mentally ill person subject to 1903  
~~hospitalization by~~ court order or a mentally retarded person 1904  
subject to institutionalization by court order, the court shall 1905  
discharge the person, unless a detainer has been placed upon the 1906  
person by the department of rehabilitation and correction, in 1907  
which case the person shall be returned to that department. 1908

(F) If, at the hearing under division (A) of this section, 1909  
the court finds by clear and convincing evidence that the person 1910  
is a mentally ill person subject to ~~hospitalization by~~ court 1911  
order, the court shall commit the person either to the department 1912  
of mental health for treatment in a hospital, facility, or agency 1913  
as determined clinically appropriate by the department of mental 1914  
health or to another medical or psychiatric facility, as 1915  
appropriate. Prior to placing the defendant, the department of 1916  
mental health shall obtain court approval for that placement. If, 1917  
at the hearing under division (A) of this section, the court 1918  
determines by clear and convincing evidence that the person 1919  
requires treatment for mental retardation, it shall commit the 1920  
person to a facility operated by the department of developmental 1921  
disabilities or another facility, as appropriate. Further 1922  
proceedings shall be in accordance with sections 2945.401 and 1923  
2945.402 of the Revised Code. In determining the place of 1924  
commitment, the court shall consider the extent to which the 1925  
person is a danger to the person and to others, the need for 1926  
security, and the type of crime involved and shall order the least 1927  
restrictive alternative available that is consistent with public 1928

safety and the welfare of the person. In weighing these factors, 1929  
the court shall give preference to protecting public safety. 1930

(G) If a court makes a commitment of a person under division 1931  
(F) of this section, the prosecutor shall send to the hospital, 1932  
facility, or agency where the person is placed by the department 1933  
of mental health or to the defendant's place of commitment all 1934  
reports of the person's current mental condition, and, except as 1935  
otherwise provided in this division, any other relevant 1936  
information, including, but not limited to, a transcript of the 1937  
hearing held pursuant to division (A) of this section, copies of 1938  
relevant police reports, and copies of any prior arrest and 1939  
conviction records that pertain to the person and that the 1940  
prosecutor possesses. The prosecutor shall send the reports of the 1941  
person's current mental condition in every case of commitment, 1942  
and, unless the prosecutor determines that the release of any of 1943  
the other relevant information to unauthorized persons would 1944  
interfere with the effective prosecution of any person or would 1945  
create a substantial risk of harm to any person, the prosecutor 1946  
also shall send the other relevant information. Upon admission of 1947  
a person committed under division (F) of this section, the place 1948  
of commitment shall send to the board of alcohol, drug addiction, 1949  
and mental health services or the community mental health board 1950  
serving the county in which the charges against the person were 1951  
filed a copy of all reports of the person's current mental 1952  
condition and a copy of the other relevant information provided by 1953  
the prosecutor under this division, including, if provided, a 1954  
transcript of the hearing held pursuant to division (A) of this 1955  
section, the relevant police reports, and the prior arrest and 1956  
conviction records that pertain to the person and that the 1957  
prosecutor possesses. 1958

(H) A person who is committed pursuant to this section shall 1959  
not voluntarily admit the person or be voluntarily admitted to a 1960

hospital or institution pursuant to section 5122.02, 5122.15, 1961  
5123.69, or 5123.76 of the Revised Code. 1962

**Sec. 2945.401.** (A) A defendant found incompetent to stand 1963  
trial and committed pursuant to section 2945.39 of the Revised 1964  
Code or a person found not guilty by reason of insanity and 1965  
committed pursuant to section 2945.40 of the Revised Code shall 1966  
remain subject to the jurisdiction of the trial court pursuant to 1967  
that commitment, and to the provisions of this section, until the 1968  
final termination of the commitment as described in division 1969  
(J)(1) of this section. If the jurisdiction is terminated under 1970  
this division because of the final termination of the commitment 1971  
resulting from the expiration of the maximum prison term or term 1972  
of imprisonment described in division (J)(1)(b) of this section, 1973  
the court or prosecutor may file an affidavit for the civil 1974  
commitment of the defendant or person pursuant to Chapter 5122. or 1975  
5123. of the Revised Code. 1976

(B) A hearing conducted under any provision of sections 1977  
2945.37 to 2945.402 of the Revised Code shall not be conducted in 1978  
accordance with Chapters 5122. and 5123. of the Revised Code. Any 1979  
person who is committed pursuant to section 2945.39 or 2945.40 of 1980  
the Revised Code shall not voluntarily admit the person or be 1981  
voluntarily admitted to a hospital or institution pursuant to 1982  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 1983  
All other provisions of Chapters 5122. and 5123. of the Revised 1984  
Code regarding hospitalization or institutionalization shall apply 1985  
to the extent they are not in conflict with this chapter. A 1986  
commitment under section 2945.39 or 2945.40 of the Revised Code 1987  
shall not be terminated and the conditions of the commitment shall 1988  
not be changed except as otherwise provided in division (D)(2) of 1989  
this section with respect to a mentally retarded person subject to 1990  
institutionalization by court order or except by order of the 1991  
trial court. 1992



(C) The department of mental health or the institution, 1993  
facility, or program to which a defendant or person has been 1994  
committed under section 2945.39 or 2945.40 of the Revised Code 1995  
shall report in writing to the trial court, at the times specified 1996  
in this division, as to whether the defendant or person remains a 1997  
mentally ill person subject to ~~hospitalization by~~ court order or a 1998  
mentally retarded person subject to institutionalization by court 1999  
order and, in the case of a defendant committed under section 2000  
2945.39 of the Revised Code, as to whether the defendant remains 2001  
incompetent to stand trial. The department, institution, facility, 2002  
or program shall make the reports after the initial six months of 2003  
treatment and every two years after the initial report is made. 2004  
The trial court shall provide copies of the reports to the 2005  
prosecutor and to the counsel for the defendant or person. Within 2006  
thirty days after its receipt pursuant to this division of a 2007  
report from the department, institution, facility, or program, the 2008  
trial court shall hold a hearing on the continued commitment of 2009  
the defendant or person or on any changes in the conditions of the 2010  
commitment of the defendant or person. The defendant or person may 2011  
request a change in the conditions of confinement, and the trial 2012  
court shall conduct a hearing on that request if six months or 2013  
more have elapsed since the most recent hearing was conducted 2014  
under this section. 2015

(D)(1) Except as otherwise provided in division (D)(2) of 2016  
this section, when a defendant or person has been committed under 2017  
section 2945.39 or 2945.40 of the Revised Code, at any time after 2018  
evaluating the risks to public safety and the welfare of the 2019  
defendant or person, the designee of the department of mental 2020  
health or the managing officer of the institution or director of 2021  
the facility or program to which the defendant or person is 2022  
committed may recommend a termination of the defendant's or 2023  
person's commitment or a change in the conditions of the 2024  
defendant's or person's commitment. 2025

Except as otherwise provided in division (D)(2) of this 2026  
section, if the designee of the department of mental health 2027  
recommends on-grounds unsupervised movement, off-grounds 2028  
supervised movement, or nonsecured status for the defendant or 2029  
person or termination of the defendant's or person's commitment, 2030  
the following provisions apply: 2031

(a) If the department's designee recommends on-grounds 2032  
unsupervised movement or off-grounds supervised movement, the 2033  
department's designee shall file with the trial court an 2034  
application for approval of the movement and shall send a copy of 2035  
the application to the prosecutor. Within fifteen days after 2036  
receiving the application, the prosecutor may request a hearing on 2037  
the application and, if a hearing is requested, shall so inform 2038  
the department's designee. If the prosecutor does not request a 2039  
hearing within the fifteen-day period, the trial court shall 2040  
approve the application by entering its order approving the 2041  
requested movement or, within five days after the expiration of 2042  
the fifteen-day period, shall set a date for a hearing on the 2043  
application. If the prosecutor requests a hearing on the 2044  
application within the fifteen-day period, the trial court shall 2045  
hold a hearing on the application within thirty days after the 2046  
hearing is requested. If the trial court, within five days after 2047  
the expiration of the fifteen-day period, sets a date for a 2048  
hearing on the application, the trial court shall hold the hearing 2049  
within thirty days after setting the hearing date. At least 2050  
fifteen days before any hearing is held under this division, the 2051  
trial court shall give the prosecutor written notice of the date, 2052  
time, and place of the hearing. At the conclusion of each hearing 2053  
conducted under this division, the trial court either shall 2054  
approve or disapprove the application and shall enter its order 2055  
accordingly. 2056

(b) If the department's designee recommends termination of 2057

the defendant's or person's commitment at any time or if the 2058  
department's designee recommends the first of any nonsecured 2059  
status for the defendant or person, the department's designee 2060  
shall send written notice of this recommendation to the trial 2061  
court and to the local forensic center. The local forensic center 2062  
shall evaluate the committed defendant or person and, within 2063  
thirty days after its receipt of the written notice, shall submit 2064  
to the trial court and the department's designee a written report 2065  
of the evaluation. The trial court shall provide a copy of the 2066  
department's designee's written notice and of the local forensic 2067  
center's written report to the prosecutor and to the counsel for 2068  
the defendant or person. Upon the local forensic center's 2069  
submission of the report to the trial court and the department's 2070  
designee, all of the following apply: 2071

(i) If the forensic center disagrees with the recommendation 2072  
of the department's designee, it shall inform the department's 2073  
designee and the trial court of its decision and the reasons for 2074  
the decision. The department's designee, after consideration of 2075  
the forensic center's decision, shall either withdraw, proceed 2076  
with, or modify and proceed with the recommendation. If the 2077  
department's designee proceeds with, or modifies and proceeds 2078  
with, the recommendation, the department's designee shall proceed 2079  
in accordance with division (D)(1)(b)(iii) of this section. 2080

(ii) If the forensic center agrees with the recommendation of 2081  
the department's designee, it shall inform the department's 2082  
designee and the trial court of its decision and the reasons for 2083  
the decision, and the department's designee shall proceed in 2084  
accordance with division (D)(1)(b)(iii) of this section. 2085

(iii) If the forensic center disagrees with the 2086  
recommendation of the department's designee and the department's 2087  
designee proceeds with, or modifies and proceeds with, the 2088  
recommendation or if the forensic center agrees with the 2089

recommendation of the department's designee, the department's 2090  
designee shall work with community mental health agencies, 2091  
programs, facilities, or boards of alcohol, drug addiction, and 2092  
mental health services or community mental health boards to 2093  
develop a plan to implement the recommendation. If the defendant 2094  
or person is on medication, the plan shall include, but shall not 2095  
be limited to, a system to monitor the defendant's or person's 2096  
compliance with the prescribed medication treatment plan. The 2097  
system shall include a schedule that clearly states when the 2098  
defendant or person shall report for a medication compliance 2099  
check. The medication compliance checks shall be based upon the 2100  
effective duration of the prescribed medication, taking into 2101  
account the route by which it is taken, and shall be scheduled at 2102  
intervals sufficiently close together to detect a potential 2103  
increase in mental illness symptoms that the medication is 2104  
intended to prevent. 2105

The department's designee, after consultation with the board 2106  
of alcohol, drug addiction, and mental health services or the 2107  
community mental health board serving the area, shall send the 2108  
recommendation and plan developed under division (D)(1)(b)(iii) of 2109  
this section, in writing, to the trial court, the prosecutor, and 2110  
the counsel for the committed defendant or person. The trial court 2111  
shall conduct a hearing on the recommendation and plan developed 2112  
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 2113  
and (d) and (E) to (J) of this section apply regarding the 2114  
hearing. 2115

(c) If the department's designee's recommendation is for 2116  
nonsecured status or termination of commitment, the prosecutor may 2117  
obtain an independent expert evaluation of the defendant's or 2118  
person's mental condition, and the trial court may continue the 2119  
hearing on the recommendation for a period of not more than thirty 2120  
days to permit time for the evaluation. 2121

The prosecutor may introduce the evaluation report or present 2122  
other evidence at the hearing in accordance with the Rules of 2123  
Evidence. 2124

(d) The trial court shall schedule the hearing on a 2125  
department's designee's recommendation for nonsecured status or 2126  
termination of commitment and shall give reasonable notice to the 2127  
prosecutor and the counsel for the defendant or person. Unless 2128  
continued for independent evaluation at the prosecutor's request 2129  
or for other good cause, the hearing shall be held within thirty 2130  
days after the trial court's receipt of the recommendation and 2131  
plan. 2132

(2)(a) Division (D)(1) of this section does not apply to 2133  
on-grounds unsupervised movement of a defendant or person who has 2134  
been committed under section 2945.39 or 2945.40 of the Revised 2135  
Code, who is a mentally retarded person subject to 2136  
institutionalization by court order, and who is being provided 2137  
residential habilitation, care, and treatment in a facility 2138  
operated by the department of developmental disabilities. 2139

(b) If, pursuant to section 2945.39 of the Revised Code, the 2140  
trial court commits a defendant who is found incompetent to stand 2141  
trial and who is a mentally retarded person subject to 2142  
institutionalization by court order, if the defendant is being 2143  
provided residential habilitation, care, and treatment in a 2144  
facility operated by the department of developmental disabilities, 2145  
if an individual who is conducting a survey for the department of 2146  
health to determine the facility's compliance with the 2147  
certification requirements of the medicaid program under Chapter 2148  
5111. of the Revised Code and Title XIX of the "Social Security 2149  
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 2150  
defendant's receipt of the residential habilitation, care, and 2151  
treatment in the facility as being inappropriate under the 2152  
certification requirements, if the defendant's receipt of the 2153

residential habilitation, care, and treatment in the facility 2154  
potentially jeopardizes the facility's continued receipt of 2155  
federal medicaid moneys, and if as a result of the citation the 2156  
chief clinical officer of the facility determines that the 2157  
conditions of the defendant's commitment should be changed, the 2158  
department of developmental disabilities may cause the defendant 2159  
to be removed from the particular facility and, after evaluating 2160  
the risks to public safety and the welfare of the defendant and 2161  
after determining whether another type of placement is consistent 2162  
with the certification requirements, may place the defendant in 2163  
another facility that the department selects as an appropriate 2164  
facility for the defendant's continued receipt of residential 2165  
habilitation, care, and treatment and that is a no less secure 2166  
setting than the facility in which the defendant had been placed 2167  
at the time of the citation. Within three days after the 2168  
defendant's removal and alternative placement under the 2169  
circumstances described in division (D)(2)(b) of this section, the 2170  
department of developmental disabilities shall notify the trial 2171  
court and the prosecutor in writing of the removal and alternative 2172  
placement. 2173

The trial court shall set a date for a hearing on the removal 2174  
and alternative placement, and the hearing shall be held within 2175  
twenty-one days after the trial court's receipt of the notice from 2176  
the department of developmental disabilities. At least ten days 2177  
before the hearing is held, the trial court shall give the 2178  
prosecutor, the department of developmental disabilities, and the 2179  
counsel for the defendant written notice of the date, time, and 2180  
place of the hearing. At the hearing, the trial court shall 2181  
consider the citation issued by the individual who conducted the 2182  
survey for the department of health to be prima-facie evidence of 2183  
the fact that the defendant's commitment to the particular 2184  
facility was inappropriate under the certification requirements of 2185  
the medicaid program under Chapter 5111. of the Revised Code and 2186

Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 2187  
U.S.C.A. 301, as amended, and potentially jeopardizes the 2188  
particular facility's continued receipt of federal medicaid 2189  
moneys. At the conclusion of the hearing, the trial court may 2190  
approve or disapprove the defendant's removal and alternative 2191  
placement. If the trial court approves the defendant's removal and 2192  
alternative placement, the department of developmental 2193  
disabilities may continue the defendant's alternative placement. 2194  
If the trial court disapproves the defendant's removal and 2195  
alternative placement, it shall enter an order modifying the 2196  
defendant's removal and alternative placement, but that order 2197  
shall not require the department of developmental disabilities to 2198  
replace the defendant for purposes of continued residential 2199  
habilitation, care, and treatment in the facility associated with 2200  
the citation issued by the individual who conducted the survey for 2201  
the department of health. 2202

(E) In making a determination under this section regarding 2203  
nonsecured status or termination of commitment, the trial court 2204  
shall consider all relevant factors, including, but not limited 2205  
to, all of the following: 2206

(1) Whether, in the trial court's view, the defendant or 2207  
person currently represents a substantial risk of physical harm to 2208  
the defendant or person or others; 2209

(2) Psychiatric and medical testimony as to the current 2210  
mental and physical condition of the defendant or person; 2211

(3) Whether the defendant or person has insight into the 2212  
defendant's or person's condition so that the defendant or person 2213  
will continue treatment as prescribed or seek professional 2214  
assistance as needed; 2215

(4) The grounds upon which the state relies for the proposed 2216  
commitment; 2217

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

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

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

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

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

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

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

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of mental health, managing officer of the institution, or director of a facility or program, the trial



court may approve, disapprove, or modify the recommendation and 2249  
shall enter an order accordingly. 2250

(J)(1) A defendant or person who has been committed pursuant 2251  
to section 2945.39 or 2945.40 of the Revised Code continues to be 2252  
under the jurisdiction of the trial court until the final 2253  
termination of the commitment. For purposes of division (J) of 2254  
this section, the final termination of a commitment occurs upon 2255  
the earlier of one of the following: 2256

(a) The defendant or person no longer is a mentally ill 2257  
person subject to ~~hospitalization by~~ court order or a mentally 2258  
retarded person subject to institutionalization by court order, as 2259  
determined by the trial court; 2260

(b) The expiration of the maximum prison term or term of 2261  
imprisonment that the defendant or person could have received if 2262  
the defendant or person had been convicted of the most serious 2263  
offense with which the defendant or person is charged or in 2264  
relation to which the defendant or person was found not guilty by 2265  
reason of insanity; 2266

(c) The trial court enters an order terminating the 2267  
commitment under the circumstances described in division 2268  
(J)(2)(a)(ii) of this section. 2269

(2)(a) If a defendant is found incompetent to stand trial and 2270  
committed pursuant to section 2945.39 of the Revised Code, if 2271  
neither of the circumstances described in divisions (J)(1)(a) and 2272  
(b) of this section applies to that defendant, and if a report 2273  
filed with the trial court pursuant to division (C) of this 2274  
section indicates that the defendant presently is competent to 2275  
stand trial or if, at any other time during the period of the 2276  
defendant's commitment, the prosecutor, the counsel for the 2277  
defendant, or the designee of the department of mental health or 2278  
the managing officer of the institution or director of the 2279

facility or program to which the defendant is committed files an 2280  
application with the trial court alleging that the defendant 2281  
presently is competent to stand trial and requesting a hearing on 2282  
the competency issue or the trial court otherwise has reasonable 2283  
cause to believe that the defendant presently is competent to 2284  
stand trial and determines on its own motion to hold a hearing on 2285  
the competency issue, the trial court shall schedule a hearing on 2286  
the competency of the defendant to stand trial, shall give the 2287  
prosecutor, the counsel for the defendant, and the department's 2288  
designee or the managing officer of the institution or the 2289  
director of the facility to which the defendant is committed 2290  
notice of the date, time, and place of the hearing at least 2291  
fifteen days before the hearing, and shall conduct the hearing 2292  
within thirty days of the filing of the application or of its own 2293  
motion. If, at the conclusion of the hearing, the trial court 2294  
determines that the defendant presently is capable of 2295  
understanding the nature and objective of the proceedings against 2296  
the defendant and of assisting in the defendant's defense, the 2297  
trial court shall order that the defendant is competent to stand 2298  
trial and shall be proceeded against as provided by law with 2299  
respect to the applicable offenses described in division (C)(1) of 2300  
section 2945.38 of the Revised Code and shall enter whichever of 2301  
the following additional orders is appropriate: 2302

(i) If the trial court determines that the defendant remains 2303  
a mentally ill person subject to ~~hospitalization~~ by court order or 2304  
a mentally retarded person subject to institutionalization by 2305  
court order, the trial court shall order that the defendant's 2306  
commitment to the department of mental health or to an 2307  
institution, facility, or program for the treatment of mental 2308  
retardation be continued during the pendency of the trial on the 2309  
applicable offenses described in division (C)(1) of section 2310  
2945.38 of the Revised Code. 2311

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

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the department of mental health or to an institution, facility, or program for the treatment of mental retardation shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

**Sec. 2967.22.** Whenever it is brought to the attention of the adult parole authority or a department of probation that a parolee, person under a community control sanction, person under transitional control, or releasee appears to be a mentally ill person subject to ~~hospitalization by~~ court order, as defined in section 5122.01 of the Revised Code, or a mentally retarded person subject to institutionalization by court order, as defined in section 5123.01 of the Revised Code, the parole or probation

officer, subject to the approval of the chief of the adult parole 2344  
authority, the designee of the chief of the adult parole 2345  
authority, or the chief probation officer, may file an affidavit 2346  
under section 5122.11 or 5123.71 of the Revised Code. A parolee, 2347  
person under a community control sanction, or releasee who is 2348  
involuntarily detained under Chapter 5122. or 5123. of the Revised 2349  
Code shall receive credit against the period of parole or 2350  
community control or the term of post-release control for the 2351  
period of involuntary detention. 2352

If a parolee, person under a community control sanction, 2353  
person under transitional control, or releasee escapes from an 2354  
institution or facility within the department of mental health or 2355  
the department of developmental disabilities, the superintendent 2356  
of the institution immediately shall notify the chief of the adult 2357  
parole authority or the chief probation officer. Notwithstanding 2358  
the provisions of section 5122.26 of the Revised Code, the 2359  
procedure for the apprehension, detention, and return of the 2360  
parolee, person under a community control sanction, person under 2361  
transitional control, or releasee is the same as that provided for 2362  
the apprehension, detention, and return of persons who escape from 2363  
institutions operated by the department of rehabilitation and 2364  
correction. If the escaped parolee, person under transitional 2365  
control, or releasee is not apprehended and returned to the 2366  
custody of the department of mental health or the department of 2367  
developmental disabilities within ninety days after the escape, 2368  
the parolee, person under transitional control, or releasee shall 2369  
be discharged from the custody of the department of mental health 2370  
or the department of developmental disabilities and returned to 2371  
the custody of the department of rehabilitation and correction. If 2372  
the escaped person under a community control sanction is not 2373  
apprehended and returned to the custody of the department of 2374  
mental health or the department of developmental disabilities 2375

within ninety days after the escape, the person under a community control sanction shall be discharged from the custody of the department of mental health or the department of developmental disabilities and returned to the custody of the court that sentenced that person.

**Sec. 5119.23.** The department of mental health may examine into, with or without expert assistance, the question of the mental and physical condition of any person committed to or involuntarily confined in any hospital for the mentally ill, or restrained of ~~his~~ liberty at any place within this state by reason of alleged mental illness and may order and compel the discharge of any such person who is not a mentally ill person subject to ~~hospitalization by~~ court order as defined in division (B) of section 5122.01 of the Revised Code and direct what disposition shall be made of ~~him~~ the person. The order of discharge shall be signed by the director of mental health. Upon receipt of such order by the superintendent or other person in charge of the building in which the person named in such order is confined, such person shall forthwith be discharged or otherwise disposed of according to the terms of said order, and any further or other detention of such person is unlawful. No such order shall be made in favor of any person committed and held for trial on a criminal charge, in confinement by an order of a judge or court made in a criminal proceeding, or in any case unless notice is given to the superintendent or other person having charge of the building in which the alleged mentally ill person is detained, and a reasonable opportunity is allowed the person in charge to justify further detention of the person confined.

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

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs

judgment, behavior, capacity to recognize reality, or ability to 2407  
meet the ordinary demands of life. 2408

(2) "Mentally ill person subject to hospitalization" means a 2409  
mentally ill person to whom any of the following applies because 2410  
of the person's mental illness: 2411

(a) The person represents a substantial risk of physical harm 2412  
to the person as manifested by evidence of threats of, or attempts 2413  
at, suicide or serious self-inflicted bodily harm. 2414

(b) The person represents a substantial risk of physical harm 2415  
to others as manifested by evidence of recent homicidal or other 2416  
violent behavior, evidence of recent threats that place another in 2417  
reasonable fear of violent behavior and serious physical harm, or 2418  
other evidence of present dangerousness. 2419

(c) The person represents a substantial and immediate risk of 2420  
serious physical impairment or injury to the person as manifested 2421  
by evidence that the person is unable to provide for and is not 2422  
providing for the person's basic physical needs because of the 2423  
person's mental illness and that appropriate provision for those 2424  
needs cannot be made immediately available in the correctional 2425  
institution in which the inmate is currently housed. 2426

(d) The person would benefit from treatment in a hospital for 2427  
the person's mental illness and is in need of treatment in a 2428  
hospital as manifested by evidence of behavior that creates a 2429  
grave and imminent risk to substantial rights of others or the 2430  
person. 2431

(3) "Psychiatric hospital" means all or part of a facility 2432  
that is operated and managed by the department of mental health to 2433  
provide psychiatric hospitalization services in accordance with 2434  
the requirements of this section pursuant to an agreement between 2435  
the directors of rehabilitation and correction and mental health 2436  
or, is licensed by the department of mental health pursuant to 2437

section 5119.20 of the Revised Code as a psychiatric hospital and 2438  
is accredited by a healthcare accrediting organization approved by 2439  
the department of mental health and the psychiatric hospital is 2440  
any of the following: 2441

(a) Operated and managed by the department of rehabilitation 2442  
and correction within a facility that is operated by the 2443  
department of rehabilitation and correction; 2444

(b) Operated and managed by a contractor for the department 2445  
of rehabilitation and correction within a facility that is 2446  
operated by the department of rehabilitation and correction; 2447

(c) Operated and managed in the community by an entity that 2448  
has contracted with the department of rehabilitation and 2449  
correction to provide psychiatric hospitalization services in 2450  
accordance with the requirements of this section. 2451

(4) "Inmate patient" means an inmate who is admitted to a 2452  
psychiatric hospital. 2453

(5) "Admitted" to a psychiatric hospital means being accepted 2454  
for and staying at least one night at the psychiatric hospital. 2455

(6) "Treatment plan" means a written statement of reasonable 2456  
objectives and goals for an inmate patient that is based on the 2457  
needs of the inmate patient and that is established by the 2458  
treatment team, with the active participation of the inmate 2459  
patient and with documentation of that participation. "Treatment 2460  
plan" includes all of the following: 2461

(a) The specific criteria to be used in evaluating progress 2462  
toward achieving the objectives and goals; 2463

(b) The services to be provided to the inmate patient during 2464  
the inmate patient's hospitalization; 2465

(c) The services to be provided to the inmate patient after 2466  
discharge from the hospital, including, but not limited to, 2467

housing and mental health services provided at the state 2468  
correctional institution to which the inmate patient returns after 2469  
discharge or community mental health services. 2470

(7) "Mentally retarded person subject to institutionalization 2471  
by court order" has the same meaning as in section 5123.01 of the 2472  
Revised Code. 2473

(8) "Emergency transfer" means the transfer of a mentally ill 2474  
inmate to a psychiatric hospital when the inmate presents an 2475  
immediate danger to self or others and requires hospital-level 2476  
care. 2477

(9) "Uncontested transfer" means the transfer of a mentally 2478  
ill inmate to a psychiatric hospital when the inmate has the 2479  
mental capacity to, and has waived, the hearing required by 2480  
division (B) of this section. 2481

(10)(a) "Independent decision-maker" means a person who is 2482  
employed or retained by the department of rehabilitation and 2483  
correction and is appointed by the chief or chief clinical officer 2484  
of mental health services as a hospitalization hearing officer to 2485  
conduct due process hearings. 2486

(b) An independent decision-maker who presides over any 2487  
hearing or issues any order pursuant to this section shall be a 2488  
psychiatrist, psychologist, or attorney, shall not be specifically 2489  
associated with the institution in which the inmate who is the 2490  
subject of the hearing or order resides at the time of the hearing 2491  
or order, and previously shall not have had any treatment 2492  
relationship with nor have represented in any legal proceeding the 2493  
inmate who is the subject of the order. 2494

(B)(1) Except as provided in division (C) of this section, if 2495  
the warden of a state correctional institution or the warden's 2496  
designee believes that an inmate should be transferred from the 2497  
institution to a psychiatric hospital, the department shall hold a 2498



hearing to determine whether the inmate is a mentally ill person 2499  
subject to hospitalization. The department shall conduct the 2500  
hearing at the state correctional institution in which the inmate 2501  
is confined, and the department shall provide qualified 2502  
independent assistance to the inmate for the hearing. An 2503  
independent decision-maker provided by the department shall 2504  
preside at the hearing and determine whether the inmate is a 2505  
mentally ill person subject to hospitalization. 2506

(2) Except as provided in division (C) of this section, prior 2507  
to the hearing held pursuant to division (B)(1) of this section, 2508  
the warden or the warden's designee shall give written notice to 2509  
the inmate that the department is considering transferring the 2510  
inmate to a psychiatric hospital, that it will hold a hearing on 2511  
the proposed transfer at which the inmate may be present, that at 2512  
the hearing the inmate has the rights described in division (B)(3) 2513  
of this section, and that the department will provide qualified 2514  
independent assistance to the inmate with respect to the hearing. 2515  
The department shall not hold the hearing until the inmate has 2516  
received written notice of the proposed transfer and has had 2517  
sufficient time to consult with the person appointed by the 2518  
department to provide assistance to the inmate and to prepare for 2519  
a presentation at the hearing. 2520

(3) At the hearing held pursuant to division (B)(1) of this 2521  
section, the department shall disclose to the inmate the evidence 2522  
that it relies upon for the transfer and shall give the inmate an 2523  
opportunity to be heard. Unless the independent decision-maker 2524  
finds good cause for not permitting it, the inmate may present 2525  
documentary evidence and the testimony of witnesses at the hearing 2526  
and may confront and cross-examine witnesses called by the 2527  
department. 2528

(4) If the independent decision-maker does not find clear and 2529  
convincing evidence that the inmate is a mentally ill person 2530

subject to hospitalization, the department shall not transfer the 2531  
inmate to a psychiatric hospital but shall continue to confine the 2532  
inmate in the same state correctional institution or in another 2533  
state correctional institution that the department considers 2534  
appropriate. If the independent decision-maker finds clear and 2535  
convincing evidence that the inmate is a mentally ill person 2536  
subject to hospitalization, the decision-maker shall order that 2537  
the inmate be transported to a psychiatric hospital for 2538  
observation and treatment for a period of not longer than thirty 2539  
days. After the hearing, the independent decision-maker shall 2540  
submit to the department a written decision that states one of the 2541  
findings described in division (B)(4) of this section, the 2542  
evidence that the decision-maker relied on in reaching that 2543  
conclusion, and, if the decision is that the inmate should be 2544  
transferred, the reasons for the transfer. 2545

(C)(1) The department may transfer an inmate to a psychiatric 2546  
hospital under an emergency transfer order if the chief clinical 2547  
officer of mental health services of the department or that 2548  
officer's designee and either a psychiatrist employed or retained 2549  
by the department or, in the absence of a psychiatrist, a 2550  
psychologist employed or retained by the department determines 2551  
that the inmate is mentally ill, presents an immediate danger to 2552  
self or others, and requires hospital-level care. 2553

(2) The department may transfer an inmate to a psychiatric 2554  
hospital under an uncontested transfer order if both of the 2555  
following apply: 2556

(a) A psychiatrist employed or retained by the department 2557  
determines all of the following apply: 2558

(i) The inmate has a mental illness or is a mentally ill 2559  
person subject to hospitalization. 2560

(ii) The inmate requires hospital care to address the mental 2561

illness. 2562

(iii) The inmate has the mental capacity to make a reasoned 2563  
choice regarding the inmate's transfer to a hospital. 2564

(b) The inmate agrees to a transfer to a hospital. 2565

(3) The written notice and the hearing required under 2566  
divisions (B)(1) and (2) of this section are not required for an 2567  
emergency transfer or uncontested transfer under division (C)(1) 2568  
or (2) of this section. 2569

(4) After an emergency transfer under division (C)(1) of this 2570  
section, the department shall hold a hearing for continued 2571  
hospitalization within five working days after admission of the 2572  
transferred inmate to the psychiatric hospital. The department 2573  
shall hold subsequent hearings pursuant to division (F) of this 2574  
section at the same intervals as required for inmate patients who 2575  
are transported to a psychiatric hospital under division (B)(4) of 2576  
this section. 2577

(5) After an uncontested transfer under division (C)(2) of 2578  
this section, the inmate may withdraw consent to the transfer in 2579  
writing at any time. Upon the inmate's withdrawal of consent, the 2580  
hospital shall discharge the inmate, or, within five working days, 2581  
the department shall hold a hearing for continued hospitalization. 2582  
The department shall hold subsequent hearings pursuant to division 2583  
(F) of this section at the same time intervals as required for 2584  
inmate patients who are transported to a psychiatric hospital 2585  
under division (B)(4) of this section. 2586

(D)(1) If an independent decision-maker, pursuant to division 2587  
(B)(4) of this section, orders an inmate transported to a 2588  
psychiatric hospital or if an inmate is transferred pursuant to 2589  
division (C)(1) or (2) of this section, the staff of the 2590  
psychiatric hospital shall examine the inmate patient when 2591  
admitted to the psychiatric hospital as soon as practicable after 2592

the inmate patient arrives at the hospital and no later than 2593  
twenty-four hours after the time of arrival. The attending 2594  
physician responsible for the inmate patient's care shall give the 2595  
inmate patient all information necessary to enable the patient to 2596  
give a fully informed, intelligent, and knowing consent to the 2597  
treatment the inmate patient will receive in the hospital. The 2598  
attending physician shall tell the inmate patient the expected 2599  
physical and medical consequences of any proposed treatment and 2600  
shall give the inmate patient the opportunity to consult with 2601  
another psychiatrist at the hospital and with the inmate advisor. 2602

(2) No inmate patient who is transported or transferred 2603  
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 2604  
psychiatric hospital within a facility that is operated by the 2605  
department of rehabilitation and correction shall be subjected to 2606  
any of the following procedures: 2607

(a) Convulsive therapy; 2608

(b) Major aversive interventions; 2609

(c) Any unusually hazardous treatment procedures; 2610

(d) Psychosurgery. 2611

(E) The department of rehabilitation and correction shall 2612  
ensure that an inmate patient hospitalized pursuant to this 2613  
section receives or has all of the following: 2614

(1) Receives sufficient professional care within twenty days 2615  
of admission to ensure that an evaluation of the inmate patient's 2616  
current status, differential diagnosis, probable prognosis, and 2617  
description of the current treatment plan have been formulated and 2618  
are stated on the inmate patient's official chart; 2619

(2) Has a written treatment plan consistent with the 2620  
evaluation, diagnosis, prognosis, and goals of treatment; 2621

(3) Receives treatment consistent with the treatment plan; 2622

(4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;	2623 2624
(5) Is provided with adequate medical treatment for physical disease or injury;	2625 2626
(6) Receives humane care and treatment, including, without being limited to, the following:	2627 2628
(a) Access to the facilities and personnel required by the treatment plan;	2629 2630
(b) A humane psychological and physical environment;	2631
(c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand;	2632 2633 2634 2635 2636
(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital;	2637 2638 2639
(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation;	2640 2641
(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department.	2642 2643 2644
(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.	2645 2646 2647 2648 2649 2650 2651 2652

An independent decision-maker shall conduct the hearings at the 2653  
psychiatric hospital in which the inmate patient is confined. The 2654  
inmate patient shall be afforded all of the rights set forth in 2655  
this section for the hearing prior to transfer to the psychiatric 2656  
hospital. The department may not waive a hearing for continued 2657  
commitment. A hearing for continued commitment is mandatory for an 2658  
inmate patient transported or transferred to a psychiatric 2659  
hospital pursuant to division (B)(4) or (C)(1) of this section 2660  
unless the inmate patient has the capacity to make a reasoned 2661  
choice to execute a waiver and waives the hearing in writing. An 2662  
inmate patient who is transferred to a psychiatric hospital 2663  
pursuant to an uncontested transfer under division (C)(2) of this 2664  
section and who has scheduled hearings after withdrawal of consent 2665  
for hospitalization may waive any of the scheduled hearings if the 2666  
inmate has the capacity to make a reasoned choice and executes a 2667  
written waiver of the hearing. 2668

If upon completion of the hearing the independent 2669  
decision-maker does not find by clear and convincing evidence that 2670  
the inmate patient is a mentally ill person subject to 2671  
hospitalization, the independent decision-maker shall order the 2672  
inmate patient's discharge from the psychiatric hospital. If the 2673  
independent decision-maker finds by clear and convincing evidence 2674  
that the inmate patient is a mentally ill person subject to 2675  
hospitalization, the independent decision-maker shall order that 2676  
the inmate patient remain at the psychiatric hospital for 2677  
continued hospitalization until the next required hearing. 2678

If at any time prior to the next required hearing for 2679  
continued hospitalization, the medical director of the hospital or 2680  
the attending physician determines that the treatment needs of the 2681  
inmate patient could be met equally well in an available and 2682  
appropriate less restrictive state correctional institution or 2683  
unit, the medical director or attending physician may discharge 2684

the inmate to that facility. 2685

(G) An inmate patient is entitled to the credits toward the 2686  
reduction of the inmate patient's stated prison term pursuant to 2687  
Chapters 2967. and 5120. of the Revised Code under the same terms 2688  
and conditions as if the inmate patient were in any other 2689  
institution of the department of rehabilitation and correction. 2690

(H) The adult parole authority may place an inmate patient on 2691  
parole or under post-release control directly from a psychiatric 2692  
hospital. 2693

(I) If an inmate patient who is a mentally ill person subject 2694  
to hospitalization is to be released from a psychiatric hospital 2695  
because of the expiration of the inmate patient's stated prison 2696  
term, the director of rehabilitation and correction or the 2697  
director's designee, at least fourteen days before the expiration 2698  
date, may file an affidavit under section 5122.11 or 5123.71 of 2699  
the Revised Code with the probate court in the county where the 2700  
psychiatric hospital is located or the probate court in the county 2701  
where the inmate will reside, alleging that the inmate patient is 2702  
a mentally ill person subject to ~~hospitalization~~ by court order or 2703  
a mentally retarded person subject to institutionalization by 2704  
court order, whichever is applicable. The proceedings in the 2705  
probate court shall be conducted pursuant to Chapter 5122. or 2706  
5123. of the Revised Code except as modified by this division. 2707

Upon the request of the inmate patient, the probate court 2708  
shall grant the inmate patient an initial hearing under section 2709  
5122.141 of the Revised Code or a probable cause hearing under 2710  
section 5123.75 of the Revised Code before the expiration of the 2711  
stated prison term. After holding a full hearing, the probate 2712  
court shall make a disposition authorized by section 5122.15 or 2713  
5123.76 of the Revised Code before the date of the expiration of 2714  
the stated prison term. No inmate patient shall be held in the 2715  
custody of the department of rehabilitation and correction past 2716

the date of the expiration of the inmate patient's stated prison term. 2717  
2718

(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients. 2719  
2720

(K) A certificate, application, record, or report that is made in compliance with this section and that directly or indirectly identifies an inmate or former inmate whose hospitalization has been sought under this section is confidential. No person shall disclose the contents of any certificate, application, record, or report of that nature or any other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies: 2721  
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(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person. 2729  
2730  
2731  
2732  
2733

(2) Disclosure is required by a court order signed by a judge. 2734  
2735

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons. 2736  
2737  
2738

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any. 2739  
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(5) An inmate patient's family member who is involved in 2747



planning, providing, and monitoring services to the inmate patient 2748  
may receive medication information, a summary of the inmate 2749  
patient's diagnosis and prognosis, and a list of the services and 2750  
personnel available to assist the inmate patient and family if the 2751  
attending physician determines that disclosure would be in the 2752  
best interest of the inmate patient. No disclosure shall be made 2753  
under this division unless the inmate patient is notified of the 2754  
possible disclosure, receives the information to be disclosed, and 2755  
does not object to the disclosure. 2756

(6) The department of rehabilitation and correction may 2757  
exchange psychiatric hospitalization records, other mental health 2758  
treatment records, and other pertinent information with county 2759  
sheriffs' offices, hospitals, institutions, and facilities of the 2760  
department of mental health and with community mental health 2761  
agencies and boards of alcohol, drug addiction, and mental health 2762  
services with which the department of mental health has a current 2763  
agreement for patient care or services to ensure continuity of 2764  
care. Disclosure under this division is limited to records 2765  
regarding a mentally ill inmate's medication history, physical 2766  
health status and history, summary of course of treatment, summary 2767  
of treatment needs, and a discharge summary, if any. No office, 2768  
department, agency, or board shall disclose the records and other 2769  
information unless one of the following applies: 2770

(a) The mentally ill inmate is notified of the possible 2771  
disclosure and consents to the disclosure. 2772

(b) The mentally ill inmate is notified of the possible 2773  
disclosure, an attempt to gain the consent of the inmate is made, 2774  
and the office, department, agency, or board documents the attempt 2775  
to gain consent, the inmate's objections, if any, and the reasons 2776  
for disclosure in spite of the inmate's objections. 2777

(7) Information may be disclosed to staff members designated 2778  
by the director of rehabilitation and correction for the purpose 2779

of evaluating the quality, effectiveness, and efficiency of 2780  
services and determining if the services meet minimum standards. 2781

The name of an inmate patient shall not be retained with the 2782  
information obtained during the evaluations. 2783

(L) The director of rehabilitation and correction may adopt 2784  
rules setting forth guidelines for the procedures required under 2785  
divisions (B), (C)(1), and (C)(2) of this section. 2786

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of 2787  
the Revised Code: 2788

(A) "Mental illness" means a substantial disorder of thought, 2789  
mood, perception, orientation, or memory that grossly impairs 2790  
judgment, behavior, capacity to recognize reality, or ability to 2791  
meet the ordinary demands of life. 2792

(B) "Mentally ill person subject to ~~hospitalization by~~ court 2793  
order" means a mentally ill person who, because of the person's 2794  
illness: 2795

(1) Represents a substantial risk of physical harm to self as 2796  
manifested by evidence of threats of, or attempts at, suicide or 2797  
serious self-inflicted bodily harm; 2798

(2) Represents a substantial risk of physical harm to others 2799  
as manifested by evidence of recent homicidal or other violent 2800  
behavior, evidence of recent threats that place another in 2801  
reasonable fear of violent behavior and serious physical harm, or 2802  
other evidence of present dangerousness; 2803

(3) Represents a substantial and immediate risk of serious 2804  
physical impairment or injury to self as manifested by evidence 2805  
that the person is unable to provide for and is not providing for 2806  
the person's basic physical needs because of the person's mental 2807  
illness and that appropriate provision for those needs cannot be 2808  
made immediately available in the community; or 2809

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

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

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

(c) The likelihood that the person will not voluntarily participate in treatment despite a risk of serious impairment or injury to self or others.

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

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

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

(E) "Psychiatrist" means a licensed physician who has 2841  
satisfactorily completed a residency training program in 2842  
psychiatry, as approved by the residency review committee of the 2843  
American medical association, the committee on post-graduate 2844  
education of the American osteopathic association, or the American 2845  
osteopathic board of neurology and psychiatry, or who on July 1, 2846  
1989, has been recognized as a psychiatrist by the Ohio state 2847  
medical association or the Ohio osteopathic association on the 2848  
basis of formal training and five or more years of medical 2849  
practice limited to psychiatry. 2850

(F) "Hospital" means a hospital or inpatient unit licensed by 2851  
the department of mental health under section 5119.20 of the 2852  
Revised Code, and any institution, hospital, or other place 2853  
established, controlled, or supervised by the department under 2854  
Chapter 5119. of the Revised Code. 2855

(G) "Public hospital" means a facility that is tax-supported 2856  
and under the jurisdiction of the department of mental health. 2857

(H) "Community mental health agency" means an agency that 2858  
provides community mental health services that are certified by 2859  
the director of mental health under section 5119.611 of the 2860  
Revised Code. 2861

(I) "Licensed clinical psychologist" means a person who holds 2862  
a current valid psychologist license issued under section 4732.12 2863  
or 4732.15 of the Revised Code, and in addition, meets either of 2864  
the following criteria: 2865

(1) Meets the educational requirements set forth in division 2866  
(B) of section 4732.10 of the Revised Code and has a minimum of 2867  
two years' full-time professional experience, or the equivalent as 2868  
determined by rule of the state board of psychology, at least one 2869  
year of which shall be a predoctoral internship, in clinical 2870  
psychological work in a public or private hospital or clinic or in 2871

private practice, diagnosing and treating problems of mental 2872  
illness or mental retardation under the supervision of a 2873  
psychologist who is licensed or who holds a diploma issued by the 2874  
American board of professional psychology, or whose qualifications 2875  
are substantially similar to those required for licensure by the 2876  
state board of psychology when the supervision has occurred prior 2877  
to enactment of laws governing the practice of psychology; 2878

(2) Meets the educational requirements set forth in division 2879  
(B) of section 4732.15 of the Revised Code and has a minimum of 2880  
four years' full-time professional experience, or the equivalent 2881  
as determined by rule of the state board of psychology, in 2882  
clinical psychological work in a public or private hospital or 2883  
clinic or in private practice, diagnosing and treating problems of 2884  
mental illness or mental retardation under supervision, as set 2885  
forth in division (I)(1) of this section. 2886

(J) "Health officer" means any public health physician; 2887  
public health nurse; or other person authorized by or designated 2888  
by a city health district; a general health district; or a board 2889  
of alcohol, drug addiction, and mental health services to perform 2890  
the duties of a health officer under this chapter. 2891

(K) "Chief clinical officer" means the medical director of a 2892  
hospital, or a community mental health agency, or a board of 2893  
alcohol, drug addiction, and mental health services, or, if there 2894  
is no medical director, the licensed physician responsible for the 2895  
treatment a hospital or community mental health agency provides. 2896  
The chief clinical officer may delegate to the attending physician 2897  
responsible for a patient's care the duties imposed on the chief 2898  
clinical officer by this chapter. Within a community mental health 2899  
agency, the chief clinical officer shall be designated by the 2900  
governing body of the agency and shall be a licensed physician or 2901  
licensed clinical psychologist who supervises diagnostic and 2902  
treatment services. A licensed physician or licensed clinical 2903

psychologist designated by the chief clinical officer may perform 2904  
the duties and accept the responsibilities of the chief clinical 2905  
officer in the chief clinical officer's absence. 2906

(L) "Working day" or "court day" means Monday, Tuesday, 2907  
Wednesday, Thursday, and Friday, except when such day is a 2908  
holiday. 2909

(M) "Indigent" means unable without deprivation of 2910  
satisfaction of basic needs to provide for the payment of an 2911  
attorney and other necessary expenses of legal representation, 2912  
including expert testimony. 2913

(N) "Respondent" means the person whose detention, 2914  
commitment, hospitalization, continued hospitalization or 2915  
commitment, or discharge is being sought in any proceeding under 2916  
this chapter. 2917

(O) "Ohio protection and advocacy system" has the same 2918  
meaning as in section 5123.60 of the Revised Code. 2919

(P) "Independent expert evaluation" means an evaluation 2920  
conducted by a licensed clinical psychologist, psychiatrist, or 2921  
licensed physician who has been selected by the respondent or the 2922  
respondent's counsel and who consents to conducting the 2923  
evaluation. 2924

(Q) "Court" means the probate division of the court of common 2925  
pleas. 2926

(R) "Expunge" means: 2927

(1) The removal and destruction of court files and records, 2928  
originals and copies, and the deletion of all index references; 2929

(2) The reporting to the person of the nature and extent of 2930  
any information about the person transmitted to any other person 2931  
by the court; 2932

(3) Otherwise insuring that any examination of court files 2933

and records in question shall show no record whatever with respect 2934  
to the person; 2935

(4) That all rights and privileges are restored, and that the 2936  
person, the court, and any other person may properly reply that no 2937  
such record exists, as to any matter expunged. 2938

(S) "Residence" means a person's physical presence in a 2939  
county with intent to remain there, except that: 2940

(1) If a person is receiving a mental health service at a 2941  
facility that includes nighttime sleeping accommodations, 2942  
residence means that county in which the person maintained the 2943  
person's primary place of residence at the time the person entered 2944  
the facility; 2945

(2) If a person is committed pursuant to section 2945.38, 2946  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 2947  
residence means the county where the criminal charges were filed. 2948

When the residence of a person is disputed, the matter of 2949  
residence shall be referred to the department of mental health for 2950  
investigation and determination. Residence shall not be a basis 2951  
for a board's denying services to any person present in the 2952  
board's service district, and the board shall provide services for 2953  
a person whose residence is in dispute while residence is being 2954  
determined and for a person in an emergency situation. 2955

(T) "Admission" to a hospital or other place means that a 2956  
patient is accepted for and stays at least one night at the 2957  
hospital or other place. 2958

(U) "Prosecutor" means the prosecuting attorney, village 2959  
solicitor, city director of law, or similar chief legal officer 2960  
who prosecuted a criminal case in which a person was found not 2961  
guilty by reason of insanity, who would have had the authority to 2962  
prosecute a criminal case against a person if the person had not 2963  
been found incompetent to stand trial, or who prosecuted a case in 2964

which a person was found guilty. 2965

(V)(1) "Treatment plan" means a written statement of 2966  
reasonable objectives and goals for an individual established by 2967  
the treatment team, with specific criteria to evaluate progress 2968  
towards achieving those objectives. ~~The~~ 2969

(2) The active participation of the patient in establishing 2970  
the objectives and goals shall be documented. The treatment plan 2971  
shall be based on patient needs and include services to be 2972  
provided to the patient while the patient is hospitalized ~~and,~~ 2973  
after the patient is discharged, or in an outpatient setting. The 2974  
treatment plan shall address services to be provided ~~upon~~ 2975  
~~discharge, including.~~ The services may include, but are not 2976  
limited to housing, financial, and vocational services all of the 2977  
following: 2978

(a) Community psychiatric supportive treatment; 2979

(b) Assertive community treatment; 2980

(c) Medications; 2981

(d) Individual or group therapy; 2982

(e) Peer support services; 2983

(f) Financial services; 2984

(g) Housing or supervised living services; 2985

(h) Alcohol or substance abuse treatment; 2986

(i) Any other services prescribed to treat the patient's 2987  
mental illness and to either assist the patient in living and 2988  
functioning in the community or to help prevent a relapse or a 2989  
deterioration of the patient's current condition. 2990

(3) If the person subject to the treatment plan has executed 2991  
an advanced directive for mental health treatment, the treatment 2992  
team shall consider any directions included in such advanced 2993



directive in developing the treatment plan. 2994

(W) "Community control sanction" has the same meaning as in 2995  
section 2929.01 of the Revised Code. 2996

(X) "Post-release control sanction" has the same meaning as 2997  
in section 2967.01 of the Revised Code. 2998

(Y) "Local correctional facility" has the same meaning as in 2999  
division (D)(4) of section 2903.13 of the Revised Code. 3000

**Sec. 5122.03.** A patient admitted under section 5122.02 of the 3001  
Revised Code who requests release in writing, or whose release is 3002  
requested in writing by the patient's counsel, legal guardian, 3003  
parent, spouse, or adult next of kin shall be released forthwith, 3004  
except that when: 3005

(A) The patient was admitted on the patient's own application 3006  
and the request for release is made by a person other than the 3007  
patient, release may be conditional upon the agreement of the 3008  
patient; or 3009

(B) The chief clinical officer of the hospital, within three 3010  
court days from the receipt of the request for release, files or 3011  
causes to be filed with the court of the county where the patient 3012  
is hospitalized or of the county where the patient is a resident, 3013  
an affidavit under section 5122.11 of the Revised Code. Release 3014  
may be postponed until the hearing held under section 5122.141 of 3015  
the Revised Code. A telephone communication within three court 3016  
days from the receipt of the request for release from the chief 3017  
clinical officer to the court, indicating that the required 3018  
affidavit has been mailed, is sufficient compliance with the time 3019  
limit for filing such affidavit. 3020

Unless the patient is released within three days from the 3021  
receipt of the request by the chief clinical officer, the request 3022  
shall serve as a request for an initial hearing under section 3023

5122.141 of the Revised Code. If the court finds that the patient 3024  
is a mentally ill person subject to ~~hospitalization by~~ court 3025  
order, all provisions of this chapter with respect to involuntary 3026  
hospitalization apply to such person. 3027

Judicial proceedings for hospitalization shall not be 3028  
commenced with respect to a voluntary patient except pursuant to 3029  
this section. 3030

Sections 5121.30 to 5121.56 of the Revised Code apply to 3031  
persons received in a hospital operated by the department of 3032  
mental health on a voluntary application. 3033

The chief clinical officer of the hospital shall provide 3034  
reasonable means and arrangements for informing patients of their 3035  
rights to release as provided in this section and for assisting 3036  
them in making and presenting requests for release or for a 3037  
hearing under section 5122.141 of the Revised Code. 3038

Before a patient is released from a public hospital, the 3039  
chief clinical officer shall, when possible, notify the board of 3040  
the patient's county of residence of the patient's pending release 3041  
after the chief clinical officer has informed the patient that the 3042  
board will be so notified. 3043

**Sec. 5122.05.** (A) The chief clinical officer of a hospital 3044  
may, and the chief clinical officer of a public hospital in all 3045  
cases of psychiatric medical emergencies, shall receive for 3046  
observation, diagnosis, care, and treatment any person whose 3047  
admission is applied for under any of the following procedures: 3048

(1) Emergency procedure, as provided in section 5122.10 of 3049  
the Revised Code; 3050

(2) Judicial procedure as provided in sections 2945.38, 3051  
2945.39, 2945.40, 2945.401, 2945.402, and 5122.11 to 5122.15 of 3052  
the Revised Code. 3053

Upon application for such admission, the chief clinical 3054  
officer of a hospital immediately shall notify the board of the 3055  
patient's county of residence. To assist the hospital in 3056  
determining whether the patient is subject to involuntary 3057  
hospitalization and whether alternative services are available, 3058  
the board or an agency the board designates promptly shall assess 3059  
the patient unless the board or agency already has performed such 3060  
assessment, or unless the commitment is pursuant to section 3061  
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3062  
Code. 3063

(B) No person who is being treated by spiritual means through 3064  
prayer alone, in accordance with a recognized religious method of 3065  
healing, may be involuntarily committed unless the court has 3066  
determined that the person represents a substantial risk of 3067  
impairment or injury to self or others; 3068

(C) Any person who is involuntarily detained in a hospital or 3069  
otherwise is in custody under this chapter, immediately upon being 3070  
taken into custody, shall be informed and provided with a written 3071  
statement that the person may do any of the following: 3072

(1) Immediately make a reasonable number of telephone calls 3073  
or use other reasonable means to contact an attorney, a licensed 3074  
physician, or a licensed clinical psychologist, to contact any 3075  
other person or persons to secure representation by counsel, or to 3076  
obtain medical or psychological assistance, and be provided 3077  
assistance in making calls if the assistance is needed and 3078  
requested; 3079

(2) Retain counsel and have independent expert evaluation of 3080  
the person's mental condition and, if the person is unable to 3081  
obtain an attorney or independent expert evaluation, be 3082  
represented by court-appointed counsel or have independent expert 3083  
evaluation of the person's mental condition, or both, at public 3084  
expense if the person is indigent; 3085

(3) Have a hearing to determine whether or not the person is 3086  
a mentally ill person subject to ~~hospitalization by~~ court order. 3087

**Sec. 5122.10.** Any psychiatrist, licensed clinical 3088  
psychologist, licensed physician, health officer, parole officer, 3089  
police officer, or sheriff may take a person into custody, or the 3090  
chief of the adult parole authority or a parole or probation 3091  
officer with the approval of the chief of the authority may take a 3092  
parolee, an offender under a community control sanction or a 3093  
post-release control sanction, or an offender under transitional 3094  
control into custody and may immediately transport the parolee, 3095  
offender on community control or post-release control, or offender 3096  
under transitional control to a hospital or, notwithstanding 3097  
section 5119.20 of the Revised Code, to a general hospital not 3098  
licensed by the department of mental health where the parolee, 3099  
offender on community control or post-release control, or offender 3100  
under transitional control may be held for the period prescribed 3101  
in this section, if the psychiatrist, licensed clinical 3102  
psychologist, licensed physician, health officer, parole officer, 3103  
police officer, or sheriff has reason to believe that the person 3104  
is a mentally ill person subject to ~~hospitalization by~~ court order 3105  
under division (B) of section 5122.01 of the Revised Code, and 3106  
represents a substantial risk of physical harm to self or others 3107  
if allowed to remain at liberty pending examination. 3108

A written statement shall be given to such hospital by the 3109  
transporting psychiatrist, licensed clinical psychologist, 3110  
licensed physician, health officer, parole officer, police 3111  
officer, chief of the adult parole authority, parole or probation 3112  
officer, or sheriff stating the circumstances under which such 3113  
person was taken into custody and the reasons for the 3114  
psychiatrist's, licensed clinical psychologist's, licensed 3115  
physician's, health officer's, parole officer's, police officer's, 3116  
chief of the adult parole authority's, parole or probation 3117

officer's, or sheriff's belief. This statement shall be made 3118  
available to the respondent or the respondent's attorney upon 3119  
request of either. 3120

Every reasonable and appropriate effort shall be made to take 3121  
persons into custody in the least conspicuous manner possible. A 3122  
person taking the respondent into custody pursuant to this section 3123  
shall explain to the respondent: the name, professional 3124  
designation, and agency affiliation of the person taking the 3125  
respondent into custody; that the custody-taking is not a criminal 3126  
arrest; and that the person is being taken for examination by 3127  
mental health professionals at a specified mental health facility 3128  
identified by name. 3129

If a person taken into custody under this section is 3130  
transported to a general hospital, the general hospital may admit 3131  
the person, or provide care and treatment for the person, or both, 3132  
notwithstanding section 5119.20 of the Revised Code, but by the 3133  
end of twenty-four hours after arrival at the general hospital, 3134  
the person shall be transferred to a hospital as defined in 3135  
section 5122.01 of the Revised Code. 3136

A person transported or transferred to a hospital or 3137  
community mental health agency under this section shall be 3138  
examined by the staff of the hospital or agency within twenty-four 3139  
hours after arrival at the hospital or agency. If to conduct the 3140  
examination requires that the person remain overnight, the 3141  
hospital or agency shall admit the person in an unclassified 3142  
status until making a disposition under this section. After the 3143  
examination, if the chief clinical officer of the hospital or 3144  
agency believes that the person is not a mentally ill person 3145  
subject to ~~hospitalization by~~ court order, the chief clinical 3146  
officer shall release or discharge the person immediately unless a 3147  
court has issued a temporary order of detention applicable to the 3148  
person under section 5122.11 of the Revised Code. After the 3149

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

**Sec. 5122.11.** Proceedings for ~~the hospitalization of a person~~ 3164  
court-ordered treatment pursuant to sections 5122.11 to 5122.15 of 3165  
the Revised Code shall be commenced by the filing of an affidavit 3166  
in the manner ~~and form~~ prescribed by the department of mental 3167  
health and in a form prescribed in section 5122.111 of the Revised 3168  
Code, by any person or persons with the probate court, either on 3169  
reliable information or actual knowledge, whichever is determined 3170  
to be proper by the court. This section does not apply to the 3171  
hospitalization of a person pursuant to section 2945.39, 2945.40, 3172  
2945.401, or 2945.402 of the Revised Code. 3173

The affidavit shall contain an allegation setting forth the 3174  
specific category or categories under division (B) of section 3175  
5122.01 of the Revised Code upon which the jurisdiction of the 3176  
court is based and a statement of alleged facts sufficient to 3177  
indicate probable cause to believe that the person is a mentally 3178  
ill person subject to ~~hospitalization by~~ court order. The 3179  
affidavit may be accompanied, or the court may require that the 3180  
affidavit be accompanied, by a certificate of a psychiatrist, or a 3181

certificate signed by a licensed clinical psychologist and a 3182  
certificate signed by a licensed physician stating that the person 3183  
who issued the certificate has examined the person and is of the 3184  
opinion that the person is a mentally ill person subject to 3185  
~~hospitalization by~~ court order, or shall be accompanied by a 3186  
written statement by the applicant, under oath, that the person 3187  
has refused to submit to an examination by a psychiatrist, or by a 3188  
licensed clinical psychologist and licensed physician. 3189

Upon receipt of the affidavit, if a judge of the court or a 3190  
referee who is an attorney at law appointed by the court has 3191  
probable cause to believe that the person named in the affidavit 3192  
is a mentally ill person subject to ~~hospitalization by~~ court 3193  
order, the judge or referee may issue a temporary order of 3194  
detention ordering any health or police officer or sheriff to take 3195  
into custody and transport the person to a hospital or other place 3196  
designated in section 5122.17 of the Revised Code, or may set the 3197  
matter for further hearing. 3198

The person may be observed and treated until the hearing 3199  
provided for in section 5122.141 of the Revised Code. If no such 3200  
hearing is held, the person may be observed and treated until the 3201  
hearing provided for in section 5122.15 of the Revised Code. 3202

Sec. 5122.111. To initiate proceedings for court-ordered 3203  
treatment of a person under section 5122.11 of the Revised Code, a 3204  
person or persons shall file an affidavit with the probate court 3205  
that is identical in form and content to the following: 3206

AFFIDAVIT OF MENTAL ILLNESS 3207

The State of Ohio 3209

..... County, ss. 3210

..... Court 3211

..... 3212

<u>the undersigned, residing at</u>	3213
.....	3214
<u>says, that he/she has information to believe or has actual</u>	3215
<u>knowledge that</u>	
.....	3216
<u>(Please specify specific category(ies) below with an X.)</u>	3217
<u>[ ] Represents a substantial risk of physical harm to self as</u>	3218
<u>manifested by evidence of threats of, or attempts at, suicide or</u>	3219
<u>serious self-inflicted bodily harm;</u>	3220
<u>[ ] Represents a substantial risk of physical harm to others as</u>	3221
<u>manifested by evidence of recent homicidal or other violent</u>	3222
<u>behavior or evidence of recent threats that place another in</u>	3223
<u>reasonable fear of violent behavior and serious physical harm or</u>	3224
<u>other evidence of present dangerousness;</u>	3225
<u>[ ] Represents a substantial and immediate risk of serious</u>	3226
<u>physical impairment or injury to self as manifested by evidence of</u>	3227
<u>being unable to provide for and of not providing for basic</u>	3228
<u>physical needs because of mental illness and that appropriate</u>	3229
<u>provision for such needs cannot be made immediately available in</u>	3230
<u>the community; or</u>	3231
<u>[ ] Would benefit from treatment due to all of the following:</u>	3232
<u>(a) The substantial likelihood that, if the person is not treated,</u>	3233
<u>the person's current condition will further deteriorate to the</u>	3234
<u>point that the person will meet the criteria in one of the three</u>	3235
<u>prior paragraphs.</u>	3236
<u>(b) The person has demonstrated difficulty in adhering to</u>	3237
<u>reasonable and appropriate prescribed treatment.</u>	3238
<u>(c) The likelihood that the person will not voluntarily</u>	3239
<u>participate in treatment despite a risk of serious impairment or</u>	3240
<u>injury to self or others.</u>	3241
.....	3242



(Name of the party filing the affidavit) further says that the 3243  
facts supporting this belief are as follows:

..... 3244  
..... 3245  
..... 3246  
..... 3247  
..... 3248  
..... 3249

These facts being sufficient to indicate probable cause that the 3250  
above said person is a mentally ill person subject to 3251  
court order. 3252

Name of Patient's Last Physician or Licensed Clinical Psychologist 3253

..... 3254

Address of Patient's Last Physician or Licensed Clinical 3255  
Psychologist

..... 3256

..... 3257

The name and address of respondent's legal guardian, spouse, and 3258

adult next of kin are: 3259

Name Kinship Address 3260

..... 3261

..... Legal Guardian ..... 3262

..... 3263

..... 3264

..... Spouse ..... 3265

..... 3266

..... 3267

.....	<u>Adult Next of Kin</u>	.....	3268
		.....	3269
			3270
.....	<u>Adult Next of Kin</u>	.....	3271
		.....	3272

<u>The following constitutes additional information that may be</u>	3273
<u>necessary for the purpose of determining residence:</u>	3274
.....	3275
.....	3276
.....	3277
.....	3278
.....	3279

<u>Dated this ..... day of ....., 20...</u>	3280
---	------

.....	3281
<u>Signature of the party filing the</u>	3282
<u>affidavit</u>	

<u>Sworn to before me and signed in my presence on the day and year</u>	3283
<u>above dated.</u>	3284

.....	3285
<u>Signature of Probate Judge</u>	3286

.....	3287
<u>Signature of Deputy Clerk</u>	3288

WAIVER

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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.

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

3293

.....

3294

Signature of the party filing the  
affidavit

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**Sec. 5122.13.** Upon receipt of the affidavit required by  
section 5122.11 of the Revised Code, the probate court shall refer  
the affidavit to the board of alcohol, drug addiction, and mental  
health services or an agency the board designates to assist the  
court in determining whether the respondent is subject to  
hospitalization and whether alternative services including  
outpatient treatment are available, unless the agency or board has  
already performed such screening. The board or agency shall review  
the allegations of the affidavit and other information relating to  
whether or not the person named in the affidavit or statement is a  
mentally ill person subject to ~~hospitalization by~~ court order, and  
the availability of appropriate treatment alternatives.

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

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appropriate placement for any person after that person is found to 3316  
be a mentally ill person subject to ~~hospitalization~~ court order. 3317

The court, prior to the hearing under section 5122.141 of the 3318  
Revised Code, shall release a copy of the investigative report to 3319  
the respondent's counsel. 3320

Nothing in this section precludes a judge or referee from 3321  
issuing a temporary order of detention pursuant to section 5122.11 3322  
of the Revised Code. 3323

**Sec. 5122.141.** (A) A respondent who is involuntarily placed 3324  
in a hospital or other place as designated in section 5122.10 or 3325  
5122.17 of the Revised Code, or with respect to whom proceedings 3326  
have been instituted under section 5122.11 of the Revised Code, 3327  
shall be afforded a hearing to determine whether or not the 3328  
respondent is a mentally ill person subject to ~~hospitalization by~~ 3329  
court order. The hearing shall be conducted pursuant to section 3330  
5122.15 of the Revised Code. 3331

(B) The hearing shall be conducted within five court days 3332  
from the day on which the respondent is detained or an affidavit 3333  
is filed, whichever occurs first, in a physical setting not likely 3334  
to have a harmful effect on the respondent, and may be conducted 3335  
in a hospital in or out of the county. On the motion of the 3336  
respondent, ~~his~~ the respondent's counsel, the chief clinical 3337  
officer, or on its own motion, and for good cause shown, the court 3338  
may order a continuance of the hearing. The continuance may be for 3339  
no more than ten days from the day on which the respondent is 3340  
detained or on which an affidavit is filed, whichever occurs 3341  
first. Failure to conduct the hearing within this time shall 3342  
effect an immediate discharge of the respondent. If the 3343  
proceedings are not reinstated within thirty days, all records 3344  
of the proceedings shall be expunged. 3345

(C) If the court does not find that the respondent is a 3346

mentally ill person subject to ~~hospitalization by~~ court order, it 3347  
shall order ~~his~~ the respondent's immediate discharge, and shall 3348  
expunge all record of the proceedings during this period. 3349

(D) If the court finds that the respondent is a mentally ill 3350  
person subject to ~~hospitalization by~~ court order, the court may 3351  
issue an interim order of detention ordering any health or police 3352  
officer or sheriff to take into custody and transport such person 3353  
to a hospital or other place designated in section 5122.17 of the 3354  
Revised Code, where the respondent may be observed and treated. 3355

(E) A respondent or ~~his~~ a respondent's counsel, after 3356  
obtaining the consent of the respondent, may waive the hearing 3357  
provided for in this section. In such case, unless the person has 3358  
been discharged, a mandatory full hearing shall be held by the 3359  
thirtieth day after the original involuntary detention of the 3360  
respondent. Failure to conduct the mandatory full hearing within 3361  
this time limit shall result in the immediate discharge of the 3362  
respondent. 3363

(F) Where possible, the initial hearing shall be held before 3364  
the respondent is taken into custody. 3365

**Sec. 5122.15.** (A) Full hearings shall be conducted in a 3366  
manner consistent with this chapter and with due process of law. 3367  
The hearings shall be conducted by a judge of the probate court or 3368  
a referee designated by a judge of the probate court and may be 3369  
conducted in or out of the county in which the respondent is held. 3370  
Any referee designated under this division shall be an attorney. 3371

(1) With the consent of the respondent, the following shall 3372  
be made available to counsel for the respondent: 3373

(a) All relevant documents, information, and evidence in the 3374  
custody or control of the state or prosecutor; 3375

(b) All relevant documents, information, and evidence in the 3376

custody or control of the hospital in which the respondent 3377  
currently is held, or in which the respondent has been held 3378  
pursuant to this chapter; 3379

(c) All relevant documents, information, and evidence in the 3380  
custody or control of any hospital, facility, or person not 3381  
included in division (A)(1)(a) or (b) of this section. 3382

(2) The respondent has the right to attend the hearing and to 3383  
be represented by counsel of the respondent's choice. The right to 3384  
attend the hearing may be waived only by the respondent or counsel 3385  
for the respondent after consultation with the respondent. 3386

(3) If the respondent is not represented by counsel, is 3387  
absent from the hearing, and has not validly waived the right to 3388  
counsel, the court shall appoint counsel immediately to represent 3389  
the respondent at the hearing, reserving the right to tax costs of 3390  
appointed counsel to the respondent, unless it is shown that the 3391  
respondent is indigent. If the court appoints counsel, or if the 3392  
court determines that the evidence relevant to the respondent's 3393  
absence does not justify the absence, the court shall continue the 3394  
case. 3395

(4) The respondent shall be informed that the respondent may 3396  
retain counsel and have independent expert evaluation. If the 3397  
respondent is unable to obtain an attorney, the respondent shall 3398  
be represented by court-appointed counsel. If the respondent is 3399  
indigent, court-appointed counsel and independent expert 3400  
evaluation shall be provided as an expense under section 5122.43 3401  
of the Revised Code. 3402

(5) The hearing shall be closed to the public, unless counsel 3403  
for the respondent, with the permission of the respondent, 3404  
requests that the hearing be open to the public. 3405

(6) If the hearing is closed to the public, the court, for 3406  
good cause shown, may admit persons who have a legitimate interest 3407

in the proceedings. If the respondent, the respondent's counsel, 3408  
the designee of the director or of the chief clinical officer 3409  
objects to the admission of any person, the court shall hear the 3410  
objection and any opposing argument and shall rule upon the 3411  
admission of the person to the hearing. 3412

(7) The affiant under section 5122.11 of the Revised Code 3413  
shall be subject to subpoena by either party. 3414

(8) The court shall examine the sufficiency of all documents 3415  
filed and shall inform the respondent, if present, and the 3416  
respondent's counsel of the nature and content of the documents 3417  
and the reason for which the respondent is being detained, or for 3418  
which the respondent's placement is being sought. 3419

(9) The court shall receive only reliable, competent, and 3420  
material evidence. 3421

(10) Unless proceedings are initiated pursuant to section 3422  
5120.17 or 5139.08 of the Revised Code or proceedings are 3423  
initiated regarding a resident of the service district of a board 3424  
of alcohol, drug addiction, and mental health services that elects 3425  
under division (C)(2) of section 5119.62 of the Revised Code not 3426  
to accept the amount allocated to it under that section, an 3427  
attorney that the board designates shall present the case 3428  
demonstrating that the respondent is a mentally ill person subject 3429  
to ~~hospitalization by~~ court order. The attorney shall offer 3430  
evidence of the diagnosis, prognosis, record of treatment, if any, 3431  
and less restrictive treatment plans, if any. In proceedings 3432  
pursuant to section 5120.17 or 5139.08 of the Revised Code and in 3433  
proceedings in which the respondent is a resident of a service 3434  
district of a board that elects under division (C)(2) of section 3435  
5119.62 of the Revised Code not to accept the amount allocated to 3436  
it under that section, the attorney general shall designate an 3437  
attorney who shall present the case demonstrating that the 3438  
respondent is a mentally ill person subject to ~~hospitalization by~~ 3439

court order. The attorney shall offer evidence of the diagnosis, 3440  
prognosis, record of treatment, if any, and less restrictive 3441  
treatment plans, if any. 3442

(11) The respondent or the respondent's counsel has the right 3443  
to subpoena witnesses and documents and to examine and 3444  
cross-examine witnesses. 3445

(12) The respondent has the right, but shall not be 3446  
compelled, to testify, and shall be so advised by the court. 3447

(13) On motion of the respondent or the respondent's counsel 3448  
for good cause shown, or on the court's own motion, the court may 3449  
order a continuance of the hearing. 3450

(14) If the respondent is represented by counsel and the 3451  
respondent's counsel requests a transcript and record, or if the 3452  
respondent is not represented by counsel, the court shall make and 3453  
maintain a full transcript and record of the proceeding. If the 3454  
respondent is indigent and the transcript and record is made, a 3455  
copy shall be provided to the respondent upon request and be 3456  
treated as an expense under section 5122.43 of the Revised Code. 3457

(15) To the extent not inconsistent with this chapter, the 3458  
Rules of Civil Procedure are applicable. 3459

(B) Unless, upon completion of the hearing the court finds by 3460  
clear and convincing evidence that the respondent is a mentally 3461  
ill person subject to ~~hospitalization by~~ court order, it shall 3462  
order the respondent's discharge immediately. 3463

(C) If, upon completion of the hearing, the court finds by 3464  
clear and convincing evidence that the respondent is a mentally 3465  
ill person subject to ~~hospitalization by~~ court order, the court 3466  
shall order the respondent for a period not to exceed ninety days 3467  
to any of the following: 3468

(1) A hospital operated by the department of mental health if 3469



the respondent is committed pursuant to section 5139.08 of the Revised Code; (3470-3471)

(2) A nonpublic hospital; (3472)

(3) The veterans' administration or other agency of the United States government; (3473-3474)

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates; (3475-3476)

(5) Receive private psychiatric or psychological care and treatment; (3477-3478)

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent. A jail or other local correctional facility is not a suitable facility. (3479-3482)

(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent. (3483-3486)

(E) In determining the place to which, or the person, board, or agency with whom, the respondent is to be committed under division (C) of this section, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state. (3487-3496)

(F) During ~~such~~ the ninety-day period the hospital; facility; board of alcohol, drug addiction, and mental health services; agency ~~the board designates~~; or person shall examine and treat the (3497-3499)

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

(1) The respondent shall be released from the care of the 3511  
hospital, board, agency, facility, or person immediately and shall 3512  
be referred to the court together with a report of the findings 3513  
and recommendations of the hospital, board, agency, facility, or 3514  
person; and 3515

(2) The hospital, board, agency, facility, or person shall 3516  
notify the respondent's counsel or the attorney designated by a 3517  
board of alcohol, drug addiction, and mental health services or, 3518  
if the respondent was committed to a board or an agency designated 3519  
by the board, it shall place the respondent in the least 3520  
restrictive ~~environment~~ setting available consistent with 3521  
treatment goals and notify the court and the respondent's counsel 3522  
of the placement. 3523

The court shall dismiss the case or order placement in the 3524  
least restrictive ~~environment~~ setting. 3525

(G)(1) Except as provided in divisions (G)(2) and (3) of this 3526  
section, any person who has been committed under this section, or 3527  
for whom proceedings for ~~hospitalization~~ treatment have been 3528  
commenced pursuant to section 5122.11 of the Revised Code, may 3529  
apply at any time for voluntary admission or commitment to the 3530  
hospital, facility, agency, ~~that the board designates~~, or person 3531

to which the person was committed. Upon admission as a voluntary 3532  
patient the chief clinical officer of the hospital, agency, or 3533  
other facility, or the person immediately shall notify the court, 3534  
the patient's counsel, and the attorney designated by the board, 3535  
if the attorney has entered the proceedings, in writing of that 3536  
fact, and, upon receipt of the notice, the court shall dismiss the 3537  
case. 3538

(2) A person who is found incompetent to stand trial or not 3539  
guilty by reason of insanity and who is committed pursuant to 3540  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3541  
Code shall not voluntarily commit the person pursuant to this 3542  
section until after the final termination of the commitment, as 3543  
described in division (J) of section 2945.401 of the Revised Code. 3544

(H) If, at the end of the first ninety-day period or any 3545  
subsequent period of continued commitment, there has been no 3546  
disposition of the case, either by discharge or voluntary 3547  
admission or commitment, the hospital, facility, board, agency, or 3548  
person shall discharge the patient immediately, unless at least 3549  
ten days before the expiration of the period the attorney the 3550  
board designates or the prosecutor files with the court an 3551  
application for continued commitment. The application of the 3552  
attorney or the prosecutor shall include a written report 3553  
containing the diagnosis, prognosis, past treatment, a list of 3554  
alternative treatment settings and plans, and identification of 3555  
the treatment setting that is the least restrictive consistent 3556  
with treatment needs. The attorney the board designates or the 3557  
prosecutor shall file the written report at least three days prior 3558  
to the full hearing. A copy of the application and written report 3559  
shall be provided to the respondent's counsel immediately. 3560

The court shall hold a full hearing on applications for 3561  
continued commitment at the expiration of the first ninety-day 3562  
period and at least every two years after the expiration of the 3563

first ninety-day period. 3564

Hearings following any application for continued commitment 3565  
are mandatory and may not be waived. 3566

Upon request of a person who is involuntarily committed under 3567  
this section, or the person's counsel, that is made more than one 3568  
hundred eighty days after the person's last full hearing, 3569  
mandatory or requested, the court shall hold a full hearing on the 3570  
person's continued commitment. Upon the application of a person 3571  
involuntarily committed under this section, supported by an 3572  
affidavit of a psychiatrist or licensed clinical psychologist, 3573  
alleging that the person no longer is a mentally ill person 3574  
subject to ~~hospitalization by~~ court order, the court for good 3575  
cause shown may hold a full hearing on the person's continued 3576  
commitment prior to the expiration of one hundred eighty days 3577  
after the person's last full hearing. Section 5122.12 of the 3578  
Revised Code applies to all hearings on continued commitment. 3579

If the court, after a hearing for continued commitment finds 3580  
by clear and convincing evidence that the respondent is a mentally 3581  
ill person subject to ~~hospitalization by~~ court order, the court 3582  
may order continued commitment at places or to persons specified 3583  
in division (C) of this section. 3584

(I) Unless the admission is pursuant to section 5120.17 or 3585  
5139.08 of the Revised Code, the chief clinical officer of the 3586  
hospital or agency admitting a respondent pursuant to a judicial 3587  
proceeding, within ten working days of the admission, shall make a 3588  
report of the admission to the board of alcohol, drug addiction, 3589  
and mental health services serving the respondent's county of 3590  
residence. 3591

(J) A referee appointed by the court may make all orders that 3592  
a judge may make under this section and sections 5122.11 and 3593  
5122.141 of the Revised Code, except an order of contempt of 3594

court. The orders of a referee take effect immediately. Within 3595  
fourteen days of the making of an order by a referee, a party may 3596  
file written objections to the order with the court. The filed 3597  
objections shall be considered a motion, shall be specific, and 3598  
shall state their grounds with particularity. Within ten days of 3599  
the filing of the objections, a judge of the court shall hold a 3600  
hearing on the objections and may hear and consider any testimony 3601  
or other evidence relating to the respondent's mental condition. 3602  
At the conclusion of the hearing, the judge may ratify, rescind, 3603  
or modify the referee's order. 3604

(K) An order of the court under division (C), (H), or (J) of 3605  
this section is a final order. 3606

(L) Before a board, or an agency the board designates, may 3607  
place an unconsenting respondent in an inpatient setting from a 3608  
less restrictive placement, the board or agency shall do all of 3609  
the following: 3610

(1) Determine that the respondent is in immediate need of 3611  
treatment in an inpatient setting because the respondent 3612  
represents a substantial risk of physical harm to the respondent 3613  
or others if allowed to remain in a less restrictive setting; 3614

(2) On the day of placement in the inpatient setting or on 3615  
the next court day, file with the court a motion for transfer to 3616  
an inpatient setting or communicate to the court by telephone that 3617  
the required motion has been mailed; 3618

(3) Ensure that every reasonable and appropriate effort is 3619  
made to take the respondent to the inpatient setting in the least 3620  
conspicuous manner possible; 3621

(4) Immediately notify the board's designated attorney and 3622  
the respondent's attorney. 3623

At the respondent's request, the court shall hold a hearing 3624  
on the motion and make a determination pursuant to division (E) of 3625

this section within five days of the placement. 3626

(M) Before a board, or an agency the board designates, may 3627  
move a respondent from one residential placement to another, the 3628  
board or agency shall consult with the respondent about the 3629  
placement. If the respondent objects to the placement, the 3630  
proposed placement and the need for it shall be reviewed by a 3631  
qualified mental health professional who otherwise is not involved 3632  
in the treatment of the respondent. 3633

**Sec. 5122.19.** Every person transported to a hospital or 3634  
community mental health agency pursuant to sections 5122.11 to 3635  
5122.16 of the Revised Code, shall be examined by the staff of the 3636  
hospital or agency as soon as practicable after ~~his~~ arrival at the 3637  
hospital or agency. Such an examination shall be held within 3638  
twenty-four hours after the time of arrival, and if the chief 3639  
clinical officer fails after such an examination to certify that 3640  
in ~~his~~ the chief clinical officer's opinion the person is a 3641  
mentally ill person subject to ~~hospitalization by~~ court order, the 3642  
person shall be immediately released. 3643

**Sec. 5122.21.** (A) The chief clinical officer shall as 3644  
frequently as practicable, and at least once every thirty days, 3645  
examine or cause to be examined every patient, and, whenever the 3646  
chief clinical officer determines that the conditions justifying 3647  
involuntary hospitalization or commitment no longer obtain, shall 3648  
discharge the patient not under indictment or conviction for crime 3649  
and immediately make a report of the discharge to the department 3650  
of mental health. The chief clinical officer may discharge a 3651  
patient who is under an indictment, a sentence of imprisonment, a 3652  
community control sanction, or a post-release control sanction or 3653  
on parole ten days after written notice of intent to discharge the 3654  
patient has been given by personal service or certified mail, 3655  
return receipt requested, to the court having criminal 3656

jurisdiction over the patient. Except when the patient was found 3657  
not guilty by reason of insanity and the defendant's commitment is 3658  
pursuant to section 2945.40 of the Revised Code, the chief 3659  
clinical officer has final authority to discharge a patient who is 3660  
under an indictment, a sentence of imprisonment, a community 3661  
control sanction, or a post-release control sanction or on parole. 3662

(B) After a finding pursuant to section 5122.15 of the 3663  
Revised Code that a person is a mentally ill person subject to 3664  
~~hospitalization by~~ court order, the chief clinical officer of the 3665  
hospital or agency to which the person is ordered or to which the 3666  
person is transferred under section 5122.20 of the Revised Code, 3667  
may grant a discharge without the consent or authorization of any 3668  
court. 3669

Upon discharge from a hospital, the chief clinical officer 3670  
shall notify the court that caused the judicial hospitalization of 3671  
the discharge from the hospital. 3672

**Sec. 5122.27.** The chief clinical officer of the hospital or 3673  
the chief clinical officer's designee shall assure that all 3674  
patients hospitalized or committed pursuant to this chapter shall: 3675

(A) Receive, within twenty days of their admission sufficient 3676  
professional care to assure that an evaluation of current status, 3677  
differential diagnosis, probable prognosis, and description of the 3678  
current treatment plan is stated on the official chart; 3679

(B) Have a written treatment plan consistent with the 3680  
evaluation, diagnosis, prognosis, and goals which shall be 3681  
provided, upon request of the patient or patient's counsel, to the 3682  
patient's counsel and to any private physician or licensed 3683  
clinical psychologist designated by the patient or the patient's 3684  
counsel or to the Ohio protection and advocacy system; 3685

(C) Receive treatment consistent with the treatment plan. The 3686

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

(D) Receive periodic reevaluations of the treatment plan by 3691  
the professional staff at intervals not to exceed ninety days; 3692

(E) Be provided with adequate medical treatment for physical 3693  
disease or injury; 3694

(F) Receive humane care and treatment, including without 3695  
limitation, the following: 3696

(1) The least restrictive environment consistent with the 3697  
treatment plan; 3698

(2) The necessary facilities and personnel required by the 3699  
treatment plan; 3700

(3) A humane psychological and physical environment; 3701

(4) The right to obtain current information concerning the 3702  
patient's treatment program and expectations in terms that the 3703  
patient can reasonably understand; 3704

(5) Participation in programs designed to afford the patient 3705  
substantial opportunity to acquire skills to facilitate return to 3706  
the community or to terminate an involuntary commitment; 3707

(6) The right to be free from unnecessary or excessive 3708  
medication; 3709

(7) Freedom from restraints or isolation unless it is stated 3710  
in a written order by the chief clinical officer or the chief 3711  
clinical officer's designee, or the patient's individual physician 3712  
or psychologist in a private or general hospital. 3713

If the chief clinical officer of the hospital is unable to 3714  
provide the treatment required by divisions (C), (E), and (F) of 3715  
this section for any patient hospitalized pursuant to Chapter 3716



5122. of the Revised Code, the chief clinical officer shall 3717  
immediately notify the patient, the court, the Ohio protection and 3718  
advocacy system, the director of mental health, and the patient's 3719  
counsel and legal guardian, if known. If within ten days after 3720  
receipt of such notification by the director, the director is 3721  
unable to effect a transfer of the patient, pursuant to section 3722  
5122.20 of the Revised Code, to a hospital, community mental 3723  
health agency, or other medical facility where treatment is 3724  
available, or has not received an order of the court to the 3725  
contrary, the involuntary commitment of any patient hospitalized 3726  
pursuant to Chapter 5122. of the Revised Code and defined as a 3727  
mentally ill person subject to ~~hospitalization by~~ court order 3728  
under division (B)(4) of section 5122.01 of the Revised Code shall 3729  
automatically be terminated. 3730

**Sec. 5122.30.** Any person detained pursuant to this chapter or 3731  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 3732  
Code shall be entitled to the writ of habeas corpus upon proper 3733  
petition by self or by a friend to any court generally empowered 3734  
to issue the writ of habeas corpus in the county in which the 3735  
person is detained. 3736

No person may bring a petition for a writ of habeas corpus 3737  
that alleges that a person involuntarily detained pursuant to this 3738  
chapter no longer is a mentally ill person subject to 3739  
~~hospitalization by~~ court order unless the person shows that the 3740  
release procedures of division (H) of section 5122.15 of the 3741  
Revised Code are inadequate or unavailable. 3742

**Sec. 5122.31.** (A) All certificates, applications, records, 3743  
and reports made for the purpose of this chapter and sections 3744  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 3745  
Code, other than court journal entries or court docket entries, 3746  
and directly or indirectly identifying a patient or former patient 3747

or person whose hospitalization or commitment has been sought 3748  
under this chapter, shall be kept confidential and shall not be 3749  
disclosed by any person except: 3750

(1) If the person identified, or the person's legal guardian, 3751  
if any, or if the person is a minor, the person's parent or legal 3752  
guardian, consents, and if the disclosure is in the best interests 3753  
of the person, as may be determined by the court for judicial 3754  
records and by the chief clinical officer for medical records; 3755

(2) When disclosure is provided for in this chapter or 3756  
section 5123.601 of the Revised Code; 3757

(3) That hospitals, boards of alcohol, drug addiction, and 3758  
mental health services, and community mental health agencies may 3759  
release necessary medical information to insurers and other 3760  
third-party payers, including government entities responsible for 3761  
processing and authorizing payment, to obtain payment for goods 3762  
and services furnished to the patient; 3763

(4) Pursuant to a court order signed by a judge; 3764

(5) That a patient shall be granted access to the patient's 3765  
own psychiatric and medical records, unless access specifically is 3766  
restricted in a patient's treatment plan for clear treatment 3767  
reasons; 3768

(6) That hospitals and other institutions and facilities 3769  
within the department of mental health may exchange psychiatric 3770  
records and other pertinent information with other hospitals, 3771  
institutions, and facilities of the department, and with community 3772  
mental health agencies and boards of alcohol, drug addiction, and 3773  
mental health services with which the department has a current 3774  
agreement for patient care or services. Records and information 3775  
that may be released pursuant to this division shall be limited to 3776  
medication history, physical health status and history, financial 3777

status, summary of course of treatment in the hospital, summary of 3778  
treatment needs, and a discharge summary, if any. 3779

(7) That hospitals within the department, other institutions 3780  
and facilities within the department, hospitals licensed by the 3781  
department under section 5119.20 of the Revised Code, and 3782  
community mental health agencies may exchange psychiatric records 3783  
and other pertinent information with payers and other providers of 3784  
treatment and health services if the purpose of the exchange is to 3785  
facilitate continuity of care for a patient; 3786

(8) That a patient's family member who is involved in the 3787  
provision, planning, and monitoring of services to the patient may 3788  
receive medication information, a summary of the patient's 3789  
diagnosis and prognosis, and a list of the services and personnel 3790  
available to assist the patient and the patient's family, if the 3791  
patient's treating physician determines that the disclosure would 3792  
be in the best interests of the patient. No such disclosure shall 3793  
be made unless the patient is notified first and receives the 3794  
information and does not object to the disclosure. 3795

(9) That community mental health agencies may exchange 3796  
psychiatric records and certain other information with the board 3797  
of alcohol, drug addiction, and mental health services and other 3798  
agencies in order to provide services to a person involuntarily 3799  
committed to a board. Release of records under this division shall 3800  
be limited to medication history, physical health status and 3801  
history, financial status, summary of course of treatment, summary 3802  
of treatment needs, and discharge summary, if any. 3803

(10) That information may be disclosed to the executor or the 3804  
administrator of an estate of a deceased patient when the 3805  
information is necessary to administer the estate; 3806

(11) That records in the possession of the Ohio historical 3807  
society may be released to the closest living relative of a 3808

deceased patient upon request of that relative; 3809

(12) That information may be disclosed to staff members of 3810  
the appropriate board or to staff members designated by the 3811  
director of mental health for the purpose of evaluating the 3812  
quality, effectiveness, and efficiency of services and determining 3813  
if the services meet minimum standards. Information obtained 3814  
during such evaluations shall not be retained with the name of any 3815  
patient. 3816

(13) That records pertaining to the patient's diagnosis, 3817  
course of treatment, treatment needs, and prognosis shall be 3818  
disclosed and released to the appropriate prosecuting attorney if 3819  
the patient was committed pursuant to section 2945.38, 2945.39, 3820  
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 3821  
attorney designated by the board for proceedings pursuant to 3822  
involuntary commitment under this chapter. 3823

(14) That the department of mental health may exchange 3824  
psychiatric hospitalization records, other mental health treatment 3825  
records, and other pertinent information with the department of 3826  
rehabilitation and correction to ensure continuity of care for 3827  
inmates who are receiving mental health services in an institution 3828  
of the department of rehabilitation and correction. The department 3829  
shall not disclose those records unless the inmate is notified, 3830  
receives the information, and does not object to the disclosure. 3831  
The release of records under this division is limited to records 3832  
regarding an inmate's medication history, physical health status 3833  
and history, summary of course of treatment, summary of treatment 3834  
needs, and a discharge summary, if any. 3835

(15) That a community mental health agency that ceases to 3836  
operate may transfer to either a community mental health agency 3837  
that assumes its caseload or to the board of alcohol, drug 3838  
addiction, and mental health services of the service district in 3839  
which the patient resided at the time services were most recently 3840

provided any treatment records that have not been transferred 3841  
elsewhere at the patient's request. 3842

(B) Before records are disclosed pursuant to divisions 3843  
(A)(3), (6), and (9) of this section, the custodian of the records 3844  
shall attempt to obtain the patient's consent for the disclosure. 3845  
No person shall reveal the contents of a medical record of a 3846  
patient except as authorized by law. 3847

(C) The managing officer of a hospital who releases necessary 3848  
medical information under division (A)(3) of this section to allow 3849  
an insurance carrier or other third party payor to comply with 3850  
section 5121.43 of the Revised Code shall neither be subject to 3851  
criminal nor civil liability. 3852

**Sec. 5122.311.** (A) Notwithstanding any provision of the 3853  
Revised Code to the contrary, if, on or after ~~the effective date~~ 3854  
~~of this section~~ April 8, 2004, an individual is found by a court 3855  
to be a mentally ill person subject to ~~hospitalization by~~ court 3856  
order or becomes an involuntary patient other than one who is a 3857  
patient only for purposes of observation, the probate judge who 3858  
made the adjudication or the chief clinical officer of the 3859  
hospital, agency, or facility in which the person is an 3860  
involuntary patient shall notify the bureau of criminal 3861  
identification and investigation, on the form described in 3862  
division (C) of this section, of the identity of the individual. 3863  
The notification shall be transmitted by the judge or the chief 3864  
clinical officer not later than seven days after the adjudication 3865  
or commitment. 3866

(B) The bureau of criminal identification and investigation 3867  
shall compile and maintain the notices it receives under division 3868  
(A) of this section and shall use them for the purpose of 3869  
conducting incompetency records checks pursuant to section 311.41 3870  
of the Revised Code. The notices and the information they contain 3871

are confidential, except as provided in this division, and are not 3872  
public records. 3873

(C) The attorney general, by rule adopted under Chapter 119. 3874  
of the Revised Code, shall prescribe and make available to all 3875  
probate judges and all chief clinical officers a form to be used 3876  
by them for the purpose of making the notifications required by 3877  
division (A) of this section. 3878

**Sec. 5139.54.** (A) Notwithstanding any other provision for 3879  
determining when a child shall be released or discharged from the 3880  
legal custody of the department of youth services, including 3881  
jurisdictional provisions in section 2152.22 of the Revised Code, 3882  
the release authority, for medical reasons, may release a child 3883  
upon supervised release or discharge the child from the custody of 3884  
the department when any of the following applies: 3885

(1) The child is terminally ill or otherwise in imminent 3886  
danger of death. 3887

(2) The child is incapacitated due to injury, disease, 3888  
illness, or other medical condition and is no longer a threat to 3889  
public safety. 3890

(3) The child appears to be a mentally ill person subject to 3891  
~~hospitalization by~~ court order, as defined in section 5122.01 of 3892  
the Revised Code, or a mentally retarded person subject to 3893  
institutionalization by court order, as defined in section 5123.01 3894  
of the Revised Code. 3895

(B) When considering whether to release or discharge a child 3896  
under this section for medical reasons, the release authority may 3897  
request additional medical information about the child or may ask 3898  
the department to conduct additional medical examinations. 3899

(C) The release authority shall determine the appropriate 3900  
level of supervised release for a child released under this 3901

section. The terms and conditions of the release may require 3902  
periodic medical reevaluations as appropriate. Upon granting a 3903  
release or discharge under this section, the release authority 3904  
shall give notice of the release and its terms and conditions or 3905  
of the discharge to the court that committed the child to the 3906  
custody of the department. 3907

(D) The release authority shall submit annually to the 3908  
director of youth services a report that includes all of the 3909  
following information for the previous calendar year: 3910

(1) The number of children the release authority considered 3911  
for medical release or discharge; 3912

(2) The nature of the injury, disease, illness, or other 3913  
medical condition of each child considered for medical release or 3914  
discharge; 3915

(3) The decision made by the release authority for each 3916  
child, including the reasons for denying medical release or 3917  
discharge or for granting it; 3918

(4) The number of children on medical release who were 3919  
returned to a secure facility or whose supervised release was 3920  
revoked. 3921

**Sec. 5305.22.** (A) Any real estate or interest in real estate 3922  
coming to a person by purchase, inheritance, or otherwise, after 3923  
the spouse of the person is adjudged a mentally ill person subject 3924  
to ~~hospitalization by~~ court order and admitted to either a 3925  
hospital for persons with mental illness in this or any other 3926  
state of the United States or the psychiatric department of any 3927  
hospital of the United States, may be conveyed by the person while 3928  
the person's spouse who is a mentally ill person subject to 3929  
~~hospitalization by~~ court order remains a patient of that hospital, 3930  
free and clear from any dower right or expectancy of the person's 3931

spouse who is a mentally ill person subject to ~~hospitalization by~~ 3932  
court order. Dower shall not attach to any real estate so acquired 3933  
and conveyed during the time described in this section in favor of 3934  
such spouse who is a mentally ill person subject to 3935  
~~hospitalization by~~ court order. The indorsement upon the 3936  
instrument of conveyance, by the superintendent of the hospital to 3937  
which the spouse was admitted, that the spouse of the person 3938  
conveying the real estate is a mentally ill person subject to 3939  
~~hospitalization by~~ court order who has been admitted to that 3940  
hospital, stating when received in that hospital and signed 3941  
officially by the superintendent, shall be sufficient evidence of 3942  
the fact that the spouse of the person conveying the real estate 3943  
is a mentally ill person subject to ~~hospitalization by~~ court 3944  
order. This indorsement shall be a part of the instrument of 3945  
conveyance. 3946

(B) As used in this section, "mentally ill person subject to 3947  
~~hospitalization by~~ court order" has the same meaning as in section 3948  
5122.01 of the Revised Code. 3949

**Sec. 5907.06.** (A) A mentally ill person subject to 3950  
~~hospitalization by~~ court order whose mental condition causes the 3951  
person to be dangerous to the community shall not be admitted to a 3952  
veterans' home. If a mentally ill person subject to 3953  
~~hospitalization by~~ court order, through misrepresentation as to 3954  
the person's condition, is sent to a home, the person shall be 3955  
returned to, and the expense of the return shall be borne by, the 3956  
county from which the person came. 3957

(B) As used in this section, "mentally ill person subject to 3958  
~~hospitalization by~~ court order" has the same meaning as in section 3959  
5122.01 of the Revised Code. 3960

**Sec. 5907.09.** (A) When the affidavit referred to in section 3961



5907.08 of the Revised Code is filed, the probate judge shall 3962  
forthwith determine whether the resident is a mentally ill person 3963  
subject to ~~hospitalization by~~ court order. Insofar as applicable, 3964  
the laws governing in cases of admission to a state hospital for 3965  
persons with mental illness shall apply. The probate judge shall 3966  
have the same authority, and may receive and order paid the same 3967  
fees and costs, as the probate judge would have in the county in 3968  
which the veteran was a resident at the time of entering the 3969  
veterans' home. 3970

(B) As used in this section, "mentally ill person subject to 3971  
~~hospitalization by~~ court order" has the same meaning as in section 3972  
5122.01 of the Revised Code. 3973

**Section 2.** That existing sections 2151.011, 2151.23, 3974  
2923.125, 2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2945.40, 3975  
2945.401, 2967.22, 5119.23, 5120.17, 5122.01, 5122.03, 5122.05, 3976  
5122.10, 5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 3977  
5122.27, 5122.30, 5122.31, 5122.311, 5139.54, 5305.22, 5907.06, 3978  
and 5907.09 of the Revised Code are hereby repealed. 3979

**Section 3.** That the version of section 2151.011 of the 3980  
Revised Code that is scheduled to take effect on January 1, 2014, 3981  
be amended to read as follows: 3982

**Sec. 2151.011.** (A) As used in the Revised Code: 3983

(1) "Juvenile court" means whichever of the following is 3984  
applicable that has jurisdiction under this chapter and Chapter 3985  
2152. of the Revised Code: 3986

(a) The division of the court of common pleas specified in 3987  
section 2101.022 or 2301.03 of the Revised Code as having 3988  
jurisdiction under this chapter and Chapter 2152. of the Revised 3989  
Code or as being the juvenile division or the juvenile division 3990

combined with one or more other divisions; 3991

(b) The juvenile court of Cuyahoga county or Hamilton county 3992  
that is separately and independently created by section 2151.08 or 3993  
Chapter 2153. of the Revised Code and that has jurisdiction under 3994  
this chapter and Chapter 2152. of the Revised Code; 3995

(c) If division (A)(1)(a) or (b) of this section does not 3996  
apply, the probate division of the court of common pleas. 3997

(2) "Juvenile judge" means a judge of a court having 3998  
jurisdiction under this chapter. 3999

(3) "Private child placing agency" means any association, as 4000  
defined in section 5103.02 of the Revised Code, that is certified 4001  
under section 5103.03 of the Revised Code to accept temporary, 4002  
permanent, or legal custody of children and place the children for 4003  
either foster care or adoption. 4004

(4) "Private noncustodial agency" means any person, 4005  
organization, association, or society certified by the department 4006  
of job and family services that does not accept temporary or 4007  
permanent legal custody of children, that is privately operated in 4008  
this state, and that does one or more of the following: 4009

(a) Receives and cares for children for two or more 4010  
consecutive weeks; 4011

(b) Participates in the placement of children in certified 4012  
foster homes; 4013

(c) Provides adoption services in conjunction with a public 4014  
children services agency or private child placing agency. 4015

(B) As used in this chapter: 4016

(1) "Adequate parental care" means the provision by a child's 4017  
parent or parents, guardian, or custodian of adequate food, 4018  
clothing, and shelter to ensure the child's health and physical 4019  
safety and the provision by a child's parent or parents of 4020

specialized services warranted by the child's physical or mental 4021  
needs. 4022

(2) "Adult" means an individual who is eighteen years of age 4023  
or older. 4024

(3) "Agreement for temporary custody" means a voluntary 4025  
agreement authorized by section 5103.15 of the Revised Code that 4026  
transfers the temporary custody of a child to a public children 4027  
services agency or a private child placing agency. 4028

(4) "Alternative response" means the public children services 4029  
agency's response to a report of child abuse or neglect that 4030  
engages the family in a comprehensive evaluation of child safety, 4031  
risk of subsequent harm, and family strengths and needs and that 4032  
does not include a determination as to whether child abuse or 4033  
neglect occurred. 4034

(5) "Certified foster home" means a foster home, as defined 4035  
in section 5103.02 of the Revised Code, certified under section 4036  
5103.03 of the Revised Code. 4037

(6) "Child" means a person who is under eighteen years of 4038  
age, except that the juvenile court has jurisdiction over any 4039  
person who is adjudicated an unruly child prior to attaining 4040  
eighteen years of age until the person attains twenty-one years of 4041  
age, and, for purposes of that jurisdiction related to that 4042  
adjudication, a person who is so adjudicated an unruly child shall 4043  
be deemed a "child" until the person attains twenty-one years of 4044  
age. 4045

(7) "Child day camp," "child care," "child day-care center," 4046  
"part-time child day-care center," "type A family day-care home," 4047  
"certified type B family day-care home," "type B home," 4048  
"administrator of a child day-care center," "administrator of a 4049  
type A family day-care home," "in-home aide," and "authorized 4050  
provider" have the same meanings as in section 5104.01 of the 4051

Revised Code. 4052

(8) "Child care provider" means an individual who is a 4053  
child-care staff member or administrator of a child day-care 4054  
center, a type A family day-care home, or a type B family day-care 4055  
home, or an in-home aide or an individual who is licensed, is 4056  
regulated, is approved, operates under the direction of, or 4057  
otherwise is certified by the department of job and family 4058  
services, department of developmental disabilities, or the early 4059  
childhood programs of the department of education. 4060

(9) "Chronic truant" has the same meaning as in section 4061  
2152.02 of the Revised Code. 4062

(10) "Commit" means to vest custody as ordered by the court. 4063

(11) "Counseling" includes both of the following: 4064

(a) General counseling services performed by a public 4065  
children services agency or shelter for victims of domestic 4066  
violence to assist a child, a child's parents, and a child's 4067  
siblings in alleviating identified problems that may cause or have 4068  
caused the child to be an abused, neglected, or dependent child. 4069

(b) Psychiatric or psychological therapeutic counseling 4070  
services provided to correct or alleviate any mental or emotional 4071  
illness or disorder and performed by a licensed psychiatrist, 4072  
licensed psychologist, or a person licensed under Chapter 4757. of 4073  
the Revised Code to engage in social work or professional 4074  
counseling. 4075

(12) "Custodian" means a person who has legal custody of a 4076  
child or a public children services agency or private child 4077  
placing agency that has permanent, temporary, or legal custody of 4078  
a child. 4079

(13) "Delinquent child" has the same meaning as in section 4080  
2152.02 of the Revised Code. 4081

(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(17) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(18) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(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 4113  
otherwise authorized by any section of the Revised Code or by the 4114  
court. 4115

(22) A "legitimate excuse for absence from the public school 4116  
the child is supposed to attend" includes, but is not limited to, 4117  
any of the following: 4118

(a) The fact that the child in question has enrolled in and 4119  
is attending another public or nonpublic school in this or another 4120  
state; 4121

(b) The fact that the child in question is excused from 4122  
attendance at school for any of the reasons specified in section 4123  
3321.04 of the Revised Code; 4124

(c) The fact that the child in question has received an age 4125  
and schooling certificate in accordance with section 3331.01 of 4126  
the Revised Code. 4127

(23) "Mental illness" and "mentally ill person subject to 4128  
~~hospitalization by~~ court order" have the same meanings as in 4129  
section 5122.01 of the Revised Code. 4130

(24) "Mental injury" means any behavioral, cognitive, 4131  
emotional, or mental disorder in a child caused by an act or 4132  
omission that is described in section 2919.22 of the Revised Code 4133  
and is committed by the parent or other person responsible for the 4134  
child's care. 4135

(25) "Mentally retarded person" has the same meaning as in 4136  
section 5123.01 of the Revised Code. 4137

(26) "Nonsecure care, supervision, or training" means care, 4138  
supervision, or training of a child in a facility that does not 4139  
confine or prevent movement of the child within the facility or 4140  
from the facility. 4141

(27) "Of compulsory school age" has the same meaning as in 4142

section 3321.01 of the Revised Code. 4143

(28) "Organization" means any institution, public, 4144  
semipublic, or private, and any private association, society, or 4145  
agency located or operating in the state, incorporated or 4146  
unincorporated, having among its functions the furnishing of 4147  
protective services or care for children, or the placement of 4148  
children in certified foster homes or elsewhere. 4149

(29) "Out-of-home care" means detention facilities, shelter 4150  
facilities, certified children's crisis care facilities, certified 4151  
foster homes, placement in a prospective adoptive home prior to 4152  
the issuance of a final decree of adoption, organizations, 4153  
certified organizations, child day-care centers, type A family 4154  
day-care homes, child care provided by type B family day-care home 4155  
providers and by in-home aides, group home providers, group homes, 4156  
institutions, state institutions, residential facilities, 4157  
residential care facilities, residential camps, day camps, public 4158  
schools, chartered nonpublic schools, educational service centers, 4159  
hospitals, and medical clinics that are responsible for the care, 4160  
physical custody, or control of children. 4161

(30) "Out-of-home care child abuse" means any of the 4162  
following when committed by a person responsible for the care of a 4163  
child in out-of-home care: 4164

(a) Engaging in sexual activity with a child in the person's 4165  
care; 4166

(b) Denial to a child, as a means of punishment, of proper or 4167  
necessary subsistence, education, medical care, or other care 4168  
necessary for a child's health; 4169

(c) Use of restraint procedures on a child that cause injury 4170  
or pain; 4171

(d) Administration of prescription drugs or psychotropic 4172  
medication to the child without the written approval and ongoing 4173

supervision of a licensed physician;	4174
(e) Commission of any act, other than by accidental means,	4175
that results in any injury to or death of the child in out-of-home	4176
care or commission of any act by accidental means that results in	4177
an injury to or death of a child in out-of-home care and that is	4178
at variance with the history given of the injury or death.	4179
(31) "Out-of-home care child neglect" means any of the	4180
following when committed by a person responsible for the care of a	4181
child in out-of-home care:	4182
(a) Failure to provide reasonable supervision according to	4183
the standards of care appropriate to the age, mental and physical	4184
condition, or other special needs of the child;	4185
(b) Failure to provide reasonable supervision according to	4186
the standards of care appropriate to the age, mental and physical	4187
condition, or other special needs of the child, that results in	4188
sexual or physical abuse of the child by any person;	4189
(c) Failure to develop a process for all of the following:	4190
(i) Administration of prescription drugs or psychotropic	4191
drugs for the child;	4192
(ii) Assuring that the instructions of the licensed physician	4193
who prescribed a drug for the child are followed;	4194
(iii) Reporting to the licensed physician who prescribed the	4195
drug all unfavorable or dangerous side effects from the use of the	4196
drug.	4197
(d) Failure to provide proper or necessary subsistence,	4198
education, medical care, or other individualized care necessary	4199
for the health or well-being of the child;	4200
(e) Confinement of the child to a locked room without	4201
monitoring by staff;	4202
(f) Failure to provide ongoing security for all prescription	4203



and nonprescription medication; 4204

(g) Isolation of a child for a period of time when there is 4205  
substantial risk that the isolation, if continued, will impair or 4206  
retard the mental health or physical well-being of the child. 4207

(32) "Permanent custody" means a legal status that vests in a 4208  
public children services agency or a private child placing agency, 4209  
all parental rights, duties, and obligations, including the right 4210  
to consent to adoption, and divests the natural parents or 4211  
adoptive parents of all parental rights, privileges, and 4212  
obligations, including all residual rights and obligations. 4213

(33) "Permanent surrender" means the act of the parents or, 4214  
if a child has only one parent, of the parent of a child, by a 4215  
voluntary agreement authorized by section 5103.15 of the Revised 4216  
Code, to transfer the permanent custody of the child to a public 4217  
children services agency or a private child placing agency. 4218

(34) "Person" means an individual, association, corporation, 4219  
or partnership and the state or any of its political subdivisions, 4220  
departments, or agencies. 4221

(35) "Person responsible for a child's care in out-of-home 4222  
care" means any of the following: 4223

(a) Any foster caregiver, in-home aide, or provider; 4224

(b) Any administrator, employee, or agent of any of the 4225  
following: a public or private detention facility; shelter 4226  
facility; certified children's crisis care facility; organization; 4227  
certified organization; child day-care center; type A family 4228  
day-care home; certified type B family day-care home; group home; 4229  
institution; state institution; residential facility; residential 4230  
care facility; residential camp; day camp; school district; 4231  
community school; chartered nonpublic school; educational service 4232  
center; hospital; or medical clinic; 4233

(c) Any person who supervises or coaches children as part of 4234  
an extracurricular activity sponsored by a school district, public 4235  
school, or chartered nonpublic school; 4236

(d) Any other person who performs a similar function with 4237  
respect to, or has a similar relationship to, children. 4238

(36) "Physically impaired" means having one or more of the 4239  
following conditions that substantially limit one or more of an 4240  
individual's major life activities, including self-care, receptive 4241  
and expressive language, learning, mobility, and self-direction: 4242

(a) A substantial impairment of vision, speech, or hearing; 4243

(b) A congenital orthopedic impairment; 4244

(c) An orthopedic impairment caused by disease, rheumatic 4245  
fever or any other similar chronic or acute health problem, or 4246  
amputation or another similar cause. 4247

(37) "Placement for adoption" means the arrangement by a 4248  
public children services agency or a private child placing agency 4249  
with a person for the care and adoption by that person of a child 4250  
of whom the agency has permanent custody. 4251

(38) "Placement in foster care" means the arrangement by a 4252  
public children services agency or a private child placing agency 4253  
for the out-of-home care of a child of whom the agency has 4254  
temporary custody or permanent custody. 4255

(39) "Planned permanent living arrangement" means an order of 4256  
a juvenile court pursuant to which both of the following apply: 4257

(a) The court gives legal custody of a child to a public 4258  
children services agency or a private child placing agency without 4259  
the termination of parental rights. 4260

(b) The order permits the agency to make an appropriate 4261  
placement of the child and to enter into a written agreement with 4262  
a foster care provider or with another person or agency with whom 4263

the child is placed. 4264

(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code. 4265  
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(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code. 4268  
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(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child. 4272  
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(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code. 4280  
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(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code. 4282  
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(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. 4284  
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(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health under section 5119.22 of the Revised Code and that provides care for a child. 4287  
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(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 4291  
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developmental disability resides.	4294
(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.	4295 4296 4297 4298 4299 4300 4301
(49) "School day" means the school day established by the state board of education pursuant to section 3313.48 of the Revised Code.	4302 4303 4304
(50) "School month" and "school year" have the same meanings as in section 3313.62 of the Revised Code.	4305 4306
(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 disposition.	4307 4308 4309 4310 4311
(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.	4312 4313
(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.	4314 4315 4316
(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.	4317 4318
(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.	4319 4320 4321 4322 4323

(56) "Traditional response" means a public children services 4324  
agency's response to a report of child abuse or neglect that 4325  
encourages engagement of the family in a comprehensive evaluation 4326  
of the child's current and future safety needs and a fact-finding 4327  
process to determine whether child abuse or neglect occurred and 4328  
the circumstances surrounding the alleged harm or risk of harm. 4329

(C) For the purposes of this chapter, a child shall be 4330  
presumed abandoned when the parents of the child have failed to 4331  
visit or maintain contact with the child for more than ninety 4332  
days, regardless of whether the parents resume contact with the 4333  
child after that period of ninety days. 4334

**Section 4.** That the existing version of section 2151.011 of 4335  
the Revised Code that is scheduled to take effect on January 1, 4336  
2014, is hereby repealed. 4337

**Section 5.** Sections 3 and 4 of this act take effect on 4338  
January 1, 2014. 4339