

As Reported by the House Criminal Justice Committee

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Sub. S. B. No. 2

Senator Gavarone

**Cosponsors: Senators Manning, Antonio, Blessing, Brenner, Cirino, Craig, Dolan,
Hackett, Huffman, S., Johnson, Kunze, Peterson, Roegner, Schuring, Sykes,
Wilson, Yuko Representatives Leland, Galonski, Schmidt**

A BILL

To amend sections 2945.37, 2945.371, 2945.38, 1
5119.94, 5122.02, 5122.03, 5122.11, and 5122.111 2
and to enact sections 4732.40, 4732.41, and 3
5122.112 of the Revised Code to make changes to 4
the requirements for competency evaluations and 5
mental health treatment in criminal cases, to 6
eliminate a provision authorizing the 7
hospitalization, on an emergency basis, of a 8
person found after a hearing to meet the 9
criteria for involuntary substance abuse 10
treatment, and to enter into the Psychology 11
Interjurisdictional Compact (PSYPACT). 12

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

Section 1. That sections 2945.37, 2945.371, 2945.38, 13
5119.94, 5122.02, 5122.03, 5122.11, and 5122.111 be amended and 14
sections 4732.40, 4732.41, and 5122.112 of the Revised Code be 15
enacted to read as follows: 16

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 17

of the Revised Code: 18

(1) "Prosecutor" means a prosecuting attorney or a city 19
director of law, village solicitor, or similar chief legal 20
officer of a municipal corporation who has authority to 21
prosecute a criminal case that is before the court or the 22
criminal case in which a defendant in a criminal case has been 23
found incompetent to stand trial or not guilty by reason of 24
insanity. 25

(2) "Examiner" means either of the following: 26

(a) A psychiatrist or a licensed clinical psychologist who 27
satisfies the criteria of division (I) of section 5122.01 of the 28
Revised Code or is employed by a certified forensic center 29
designated by the department of mental health and addiction 30
services to conduct examinations or evaluations. 31

(b) For purposes of a separate intellectual disability 32
evaluation that is ordered by a court pursuant to division ~~(H)~~ 33
(I) of section 2945.371 of the Revised Code, a psychologist 34
designated by the director of developmental disabilities 35
pursuant to that section to conduct that separate intellectual 36
disability evaluation. 37

(3) "Nonsecured status" means any unsupervised, off- 38
grounds movement or trial visit from a hospital or institution, 39
or any conditional release, that is granted to a person who is 40
found incompetent to stand trial and is committed pursuant to 41
section 2945.39 of the Revised Code or to a person who is found 42
not guilty by reason of insanity and is committed pursuant to 43
section 2945.40 of the Revised Code. 44

(4) "Unsupervised, off-grounds movement" includes only 45
off-grounds privileges that are unsupervised and that have an 46

expectation of return to the hospital or institution on a daily 47
basis. 48

(5) "Trial visit" means a patient privilege of a longer 49
stated duration of unsupervised community contact with an 50
expectation of return to the hospital or institution at 51
designated times. 52

(6) "Conditional release" means a commitment status under 53
which the trial court at any time may revoke a person's 54
conditional release and order the rehospitization or 55
reinstitutionalization of the person as described in division 56
(A) of section 2945.402 of the Revised Code and pursuant to 57
which a person who is found incompetent to stand trial or a 58
person who is found not guilty by reason of insanity lives and 59
receives treatment in the community for a period of time that 60
does not exceed the maximum prison term or term of imprisonment 61
that the person could have received for the offense in question 62
had the person been convicted of the offense instead of being 63
found incompetent to stand trial on the charge of the offense or 64
being found not guilty by reason of insanity relative to the 65
offense. 66

(7) "Licensed clinical psychologist," "mentally ill person 67
subject to court order," and "psychiatrist" have the same 68
meanings as in section 5122.01 of the Revised Code. 69

(8) "Person with an intellectual disability subject to 70
institutionalization by court order" has the same meaning as in 71
section 5123.01 of the Revised Code. 72

(B) In a criminal action in a court of common pleas, a 73
county court, or a municipal court, the court, prosecutor, or 74
defense may raise the issue of the defendant's competence to 75

stand trial. If the issue is raised before the trial has 76
commenced, the court shall hold a hearing on the issue as 77
provided in this section. If the issue is raised after the trial 78
has commenced, the court shall hold a hearing on the issue only 79
for good cause shown or on the court's own motion. 80

(C) The court shall conduct the hearing required or 81
authorized under division (B) of this section within thirty days 82
after the issue is raised, unless the defendant has been 83
referred for evaluation in which case the court shall conduct 84
the hearing within ten days after the filing of the report of 85
the evaluation or, in the case of a defendant who is ordered by 86
the court pursuant to division ~~(H)~~ (I) of section 2945.371 of 87
the Revised Code to undergo a separate intellectual disability 88
evaluation conducted by a psychologist designated by the 89
director of developmental disabilities, within ten days after 90
the filing of the report of the separate intellectual disability 91
evaluation under that division. A hearing may be continued for 92
good cause. 93

(D) The defendant shall be represented by counsel at the 94
hearing conducted under division (C) of this section. If the 95
defendant is unable to obtain counsel, the court shall appoint 96
counsel under Chapter 120. of the Revised Code or under the 97
authority recognized in division (C) of section 120.06, division 98
(E) of section 120.16, division (E) of section 120.26, or 99
section 2941.51 of the Revised Code before proceeding with the 100
hearing. 101

(E) The prosecutor and defense counsel may submit evidence 102
on the issue of the defendant's competence to stand trial. A 103
written report of the evaluation of the defendant may be 104
admitted into evidence at the hearing by stipulation, but, if 105

either the prosecution or defense objects to its admission, the 106
report may be admitted under sections 2317.36 to 2317.38 of the 107
Revised Code or any other applicable statute or rule. 108

(F) The court shall not find a defendant incompetent to 109
stand trial solely because the defendant is receiving or has 110
received treatment as a voluntary or involuntary mentally ill 111
patient under Chapter 5122. or a voluntary or involuntary 112
resident with an intellectual disability under Chapter 5123. of 113
the Revised Code or because the defendant is receiving or has 114
received psychotropic drugs or other medication, even if the 115
defendant might become incompetent to stand trial without the 116
drugs or medication. 117

(G) A defendant is presumed to be competent to stand 118
trial. If, after a hearing, the court finds by a preponderance 119
of the evidence that, because of the defendant's present mental 120
condition, the defendant is incapable of understanding the 121
nature and objective of the proceedings against the defendant or 122
of assisting in the defendant's defense, the court shall find 123
the defendant incompetent to stand trial and shall enter an 124
order authorized by section 2945.38 of the Revised Code. 125

(H) Municipal courts shall follow the procedures set forth 126
in sections 2945.37 to 2945.402 of the Revised Code. Except as 127
provided in section 2945.371 of the Revised Code, a municipal 128
court shall not order an evaluation of the defendant's 129
competence to stand trial or the defendant's mental condition at 130
the time of the commission of the offense to be conducted at any 131
hospital operated by the department of mental health and 132
addiction services. Those evaluations shall be performed through 133
community resources including, but not limited to, certified 134
forensic centers, court probation departments, and community 135

mental health services providers. All expenses of the 136
evaluations shall be borne by the legislative authority of the 137
municipal court, as defined in section 1901.03 of the Revised 138
Code, and shall be taxed as costs in the case. If a defendant is 139
found incompetent to stand trial or not guilty by reason of 140
insanity, a municipal court may commit the defendant as provided 141
in sections 2945.38 to 2945.402 of the Revised Code. 142

Sec. 2945.371. (A) If the issue of a defendant's 143
competence to stand trial is raised or if a defendant enters a 144
plea of not guilty by reason of insanity, the court may order 145
one or more evaluations of the defendant's present mental 146
condition or, in the case of a plea of not guilty by reason of 147
insanity, of the defendant's mental condition at the time of the 148
offense charged. An examiner shall conduct the evaluation and 149
the evaluation may be conducted through electronic means. 150

(B) If the court orders more than one evaluation under 151
division (A) of this section, the prosecutor and the defendant 152
may recommend to the court an examiner whom each prefers to 153
perform one of the evaluations. If a defendant enters a plea of 154
not guilty by reason of insanity and if the court does not 155
designate an examiner recommended by the defendant, the court 156
shall inform the defendant that the defendant may have 157
independent expert evaluation and that, if the defendant is 158
unable to obtain independent expert evaluation, it will be 159
obtained for the defendant at public expense if the defendant is 160
indigent. 161

(C) (1) If the court orders an evaluation under division 162
(A) of this section, the defendant shall be available at the 163
times and places established by the examiners who are to conduct 164
the evaluation. The court may order a defendant who has been 165

released on bail or recognizance to submit to an evaluation 166
under this section. ~~If~~ 167

(2) If a defendant who has been released on bail or 168
recognizance refuses to submit to a complete evaluation, the 169
court may amend the conditions of bail or recognizance and order 170
the sheriff to take the defendant into custody and, except as 171
provided in division (E) of this section, deliver the defendant 172
to a center, program, or facility operated or certified by the 173
department of mental health and addiction services or the 174
department of developmental disabilities where the defendant may 175
be held for evaluation for a reasonable period of time not to 176
exceed twenty days. 177

(D) (1) A defendant who has not been released on bail or 178
recognizance may be evaluated at the defendant's place of 179
detention. ~~Upon~~ 180

(2) Upon the request of the examiner, the court may order 181
the sheriff to transport the defendant to a program or facility 182
operated or certified by the department of mental health and 183
addiction services or the department of developmental 184
disabilities, where the defendant may be held for evaluation for 185
a reasonable period of time not to exceed twenty days, and to 186
return the defendant to the place of detention after the 187
evaluation. A municipal court may make an order under this 188
division only upon the request of a certified forensic center 189
examiner. 190

(E) Except as provided in division (D) of this section, 191
the court shall not order a defendant to be held for evaluation 192
in a center, program, or facility operated by the department of 193
mental health and addiction services or the department of 194
developmental disabilities unless the defendant is charged with 195

a felony or an offense of violence or unless the court 196
determines, based on facts before the court, that the defendant 197
is in need of immediate hospitalization. 198

(F) If a court orders the evaluation to determine a 199
defendant's mental condition at the time of the offense charged, 200
the court shall inform the examiner of the offense with which 201
the defendant is charged. 202

~~(F)~~ (G) In conducting an evaluation of a defendant's 203
mental condition at the time of the offense charged, the 204
examiner shall consider all relevant evidence and may conduct 205
the evaluation through electronic means. If the offense charged 206
involves the use of force against another person, the relevant 207
evidence to be considered includes, but is not limited to, any 208
evidence that the defendant suffered, at the time of the 209
commission of the offense, from the "battered woman syndrome." 210

~~(G)~~ (H) The examiner shall file a written report with the 211
court, under seal, within thirty days after entry of a court 212
order for evaluation, ~~and the~~. The court shall provide copies 213
of the report to the prosecutor and defense counsel and shall 214
allow for inspection of the report by the defendant, the 215
defendant's guardian, a probate court, a board of alcohol, drug 216
addiction, and mental health services, and any mental health 217
professional who performs a subsequent mental health evaluation 218
of the defendant or who is involved in the treatment of the 219
defendant, but the report shall not be open to public 220
inspection. A person who is not among those permitted to inspect 221
the report as described in this division may file a motion with 222
the court seeking disclosure for good cause. When a motion for 223
disclosure of a report is filed, the court shall notify the 224
defendant of the pending motion and allow sufficient time for 225

the defendant to object to the disclosure. If the defendant 226
objects to the disclosure, the court shall schedule a hearing to 227
determine whether the party seeking access has demonstrated that 228
access to the report is necessary for treatment of the defendant 229
or for a criminal adjudication of the defendant for which the 230
report was originally created. At that time the defendant shall 231
be allowed an opportunity to provide the court with grounds for 232
the objection. The court shall not provide access to the report 233
unless the party seeking access can demonstrate that access to 234
the report is necessary for treatment of the defendant or for a 235
criminal adjudication of the defendant for which the report was 236
originally created. 237

A defendant who is the subject of an examiner's report 238
under this section prior to the effective date of this amendment 239
may file a motion with the court to have that report placed 240
under seal. Upon such a motion, the court shall place the report 241
under seal, subject to the access and disclosure provisions 242
provided in this section for reports filed after the effective 243
date. 244

The report shall include all of the following: 245

(1) The examiner's findings; 246

(2) The facts in reasonable detail on which the findings 247
are based; 248

(3) If the evaluation was ordered to determine the 249
defendant's competence to stand trial, all of the following 250
findings or recommendations that are applicable: 251

(a) Whether the defendant is capable of understanding the 252
nature and objective of the proceedings against the defendant or 253
of assisting in the defendant's defense; 254

(b) If the examiner's opinion is that the defendant is 255
incapable of understanding the nature and objective of the 256
proceedings against the defendant or of assisting in the 257
defendant's defense, whether the defendant presently is mentally 258
ill or has an intellectual disability and, if the examiner's 259
opinion is that the defendant presently has an intellectual 260
disability, whether the defendant appears to be a person with an 261
intellectual disability subject to institutionalization by court 262
order; 263

(c) If the examiner's opinion is that the defendant is 264
incapable of understanding the nature and objective of the 265
proceedings against the defendant or of assisting in the 266
defendant's defense, the examiner's opinion as to the likelihood 267
of the defendant becoming capable of understanding the nature 268
and objective of the proceedings against the defendant and of 269
assisting in the defendant's defense within one year if the 270
defendant is provided with a course of treatment; 271

(d) If the examiner's opinion is that the defendant is 272
incapable of understanding the nature and objective of the 273
proceedings against the defendant or of assisting in the 274
defendant's defense and that the defendant presently is mentally 275
ill or has an intellectual disability, the examiner's 276
recommendation as to the least restrictive placement or 277
commitment alternative, including consideration of housing needs 278
and the availability of mental health treatment in the 279
community, consistent with the defendant's treatment needs for 280
restoration to competency and with the safety of the community. 281

(4) If the evaluation was ordered to determine the 282
defendant's mental condition at the time of the offense charged, 283
the examiner's findings as to whether the defendant, at the time 284

of the offense charged, did not know, as a result of a severe 285
mental disease or defect, the wrongfulness of the defendant's 286
acts charged. 287

~~(H)~~ (I) If the examiner's report filed under division ~~(G)~~ 288
(H) of this section indicates that in the examiner's opinion the 289
defendant is incapable of understanding the nature and objective 290
of the proceedings against the defendant or of assisting in the 291
defendant's defense and that in the examiner's opinion the 292
defendant appears to be a person with an intellectual disability 293
subject to institutionalization by court order, the court shall 294
order the defendant to undergo a separate intellectual 295
disability evaluation conducted by a psychologist designated by 296
the director of developmental disabilities. Divisions (C) to ~~(F)~~ 297
(G) of this section apply in relation to a separate intellectual 298
disability evaluation conducted under this division. The 299
psychologist appointed under this division to conduct the 300
separate intellectual disability evaluation shall file a written 301
report with the court within thirty days after the entry of the 302
court order requiring the separate intellectual disability 303
evaluation, ~~and the court~~. The court shall file the report 304
under seal in the same manner as a report submitted by an 305
examiner under division (H) of this section and shall provide 306
copies of the report to the prosecutor and defense counsel. The 307
report shall include all of the information described in 308
divisions ~~(G) (1)~~ (H) (1) to (4) of this section. If the court 309
orders a separate intellectual disability evaluation of a 310
defendant under this division, the court shall not conduct a 311
hearing under divisions (B) to (H) of section 2945.37 of the 312
Revised Code regarding that defendant until a report of the 313
separate intellectual disability evaluation conducted under this 314
division has been filed. Upon the filing of that report, the 315

court shall conduct the hearing within the period of time 316
specified in division (C) of section 2945.37 of the Revised 317
Code. 318

~~(I)~~ (J) An examiner appointed under divisions (A) and (B) 319
of this section or under division ~~(H)~~ (I) of this section to 320
evaluate a defendant to determine the defendant's competence to 321
stand trial also may be appointed to evaluate a defendant who 322
has entered a plea of not guilty by reason of insanity, but an 323
examiner of that nature shall prepare separate reports on the 324
issue of competence to stand trial and the defense of not guilty 325
by reason of insanity. 326

~~(J)~~ (K) No statement that a defendant makes in an 327
evaluation or hearing under divisions (A) to ~~(H)~~ (I) of this 328
section relating to the defendant's competence to stand trial or 329
to the defendant's mental condition at the time of the offense 330
charged shall be used against the defendant on the issue of 331
guilt in any criminal action or proceeding, but, in a criminal 332
action or proceeding, the prosecutor or defense counsel may call 333
as a witness any person who evaluated the defendant or prepared 334
a report pursuant to a referral under this section. Neither the 335
appointment nor the testimony of an examiner appointed under 336
this section precludes the prosecutor or defense counsel from 337
calling other witnesses or presenting other evidence on 338
competency or insanity issues. 339

~~(K)~~ (L) Persons appointed as examiners under divisions (A) 340
and (B) of this section or under division ~~(H)~~ (I) of this 341
section shall be paid a reasonable amount for their services and 342
expenses, as certified by the court. The certified amount shall 343
be paid by the county in the case of county courts and courts of 344
common pleas and by the legislative authority, as defined in 345

section 1901.03 of the Revised Code, in the case of municipal 346
courts. 347

Sec. 2945.38. (A) If the issue of a defendant's competence 348
to stand trial is raised and if the court, upon conducting the 349
hearing provided for in section 2945.37 of the Revised Code, 350
finds that the defendant is competent to stand trial, the 351
defendant shall be proceeded against as provided by law. If the 352
court finds the defendant competent to stand trial and the 353
defendant is receiving psychotropic drugs or other medication, 354
the court may authorize the continued administration of the 355
drugs or medication or other appropriate treatment in order to 356
maintain the defendant's competence to stand trial, unless the 357
defendant's attending physician advises the court against 358
continuation of the drugs, other medication, or treatment. 359

(B) (1) (a) (i) If the defendant has been charged with a 360
felony offense or a misdemeanor offense of violence for which 361
the prosecutor has not recommended the procedures under division 362
(B) (1) (a) (vi) of this section and if, after taking into 363
consideration all relevant reports, information, and other 364
evidence, the court finds that the defendant is incompetent to 365
stand trial and that there is a substantial probability that the 366
defendant will become competent to stand trial within one year 367
if the defendant is provided with a course of treatment, the 368
court shall order the defendant to undergo treatment. 369

(ii) If the defendant has been charged with a felony 370
offense and if, after taking into consideration all relevant 371
reports, information, and other evidence, the court finds that 372
the defendant is incompetent to stand trial, but the court is 373
unable at that time to determine whether there is a substantial 374
probability that the defendant will become competent to stand 375

trial within one year if the defendant is provided with a course 376
of treatment, the court shall order continuing evaluation and 377
treatment of the defendant for a period not to exceed four 378
months to determine whether there is a substantial probability 379
that the defendant will become competent to stand trial within 380
one year if the defendant is provided with a course of 381
treatment. 382

(iii) If the defendant has not been charged with a felony 383
offense but has been charged with a misdemeanor offense of 384
violence and if, after taking into consideration all relevant 385
reports, information, and other evidence, the court finds that 386
the defendant is incompetent to stand trial, but the court is 387
unable at that time to determine whether there is a substantial 388
probability that the defendant will become competent to stand 389
trial within the time frame permitted under division (C) (1) of 390
this section, the court may order continuing evaluation and 391
treatment of the defendant for a period not to exceed the 392
maximum period permitted under that division. 393

(iv) If the defendant has not been charged with a felony 394
offense or a misdemeanor offense of violence, but has been 395
charged with a misdemeanor offense that is not a misdemeanor 396
offense of violence and if, after taking into consideration all 397
relevant reports, information, and other evidence, the court 398
finds that the defendant is incompetent to stand trial, but the 399
court is unable at that time to determine whether there is a 400
substantial probability that the defendant will become competent 401
to stand trial within the time frame permitted under division 402
(C) (1) of this section, the court shall dismiss the charges and 403
follow the process outlined in division (B) (1) (a) (v) (I) of this 404
section. 405

(v) If the defendant has not been charged with a felony 406
offense or a misdemeanor offense of violence, or if the 407
defendant has been charged with a misdemeanor offense of 408
violence and the prosecutor has recommended the procedures under 409
division (B)(1)(a)(vi) of this section, and if, after taking 410
into consideration all relevant reports, information, and other 411
evidence, the trial court finds that the defendant is 412
incompetent to stand trial, the trial court shall do one of the 413
following: 414

(I) Dismiss the charges pending against the defendant. A 415
dismissal under this division is not a bar to further 416
prosecution based on the same conduct. Upon dismissal of the 417
charges, the trial court shall discharge the defendant unless 418
the court or prosecutor, after consideration of the requirements 419
of section 5122.11 of the Revised Code, files an affidavit in 420
probate court alleging that the defendant is a mentally ill 421
person subject to court order or a person with an intellectual 422
disability subject to institutionalization by court order. If an 423
affidavit is filed in probate court, the trial court may detain 424
the defendant for ten days pending a hearing in the probate 425
court and shall send to the probate court copies of all written 426
reports of the defendant's mental condition that were prepared 427
pursuant to section 2945.371 of the Revised Code. The trial 428
court or prosecutor shall specify in the appropriate space on 429
the affidavit that the defendant is a person described in this 430
subdivision. 431

(II) Order the defendant to undergo outpatient competency 432
restoration treatment at a facility operated or certified by the 433
department of mental health and addiction services as being 434
qualified to treat mental illness, at a public or community 435
mental health facility, or in the care of a psychiatrist or 436

other mental health professional. If a defendant who has been 437
released on bail or recognizance refuses to comply with court- 438
ordered outpatient treatment under this division, the court may 439
dismiss the charges pending against the defendant and proceed 440
under division (B) (1) (a) (v) (I) of this section or may amend the 441
conditions of bail or recognizance and order the sheriff to take 442
the defendant into custody and deliver the defendant to a 443
center, program, or facility operated or certified by the 444
department of mental health and addiction services for 445
treatment. 446

(vi) If the defendant has not been charged with a felony 447
offense but has been charged with a misdemeanor offense of 448
violence and after taking into consideration all relevant 449
reports, information, and other evidence, the court finds that 450
the defendant is incompetent to stand trial, the prosecutor in 451
the case may recommend that the court follow the procedures 452
prescribed in division (B) (1) (a) (v) of this section. If the 453
prosecutor does not make such a recommendation, the court shall 454
follow the procedures in division (B) (1) (a) (i) of this section. 455

(b) The court order for the defendant to undergo treatment 456
or continuing evaluation and treatment under division (B) (1) (a) 457
of this section shall specify that the defendant, if determined 458
to require mental health treatment or continuing evaluation and 459
treatment, either shall be committed to the department of mental 460
health and addiction services for treatment or continuing 461
evaluation and treatment at a hospital, facility, or agency, as 462
determined to be clinically appropriate by the department of 463
mental health and addiction services or shall be committed to a 464
facility certified by the department of mental health and 465
addiction services as being qualified to treat mental illness, 466
to a public or community mental health facility, or to a 467

psychiatrist or another mental health professional for treatment 468
or continuing evaluation and treatment. Prior to placing the 469
defendant, the department of mental health and addiction 470
services shall obtain court approval for that placement 471
following a hearing. The court order for the defendant to 472
undergo treatment or continuing evaluation and treatment under 473
division (B)(1)(a) of this section shall specify that the 474
defendant, if determined to require treatment or continuing 475
evaluation and treatment for an intellectual disability, shall 476
receive treatment or continuing evaluation and treatment at an 477
institution or facility operated by the department of 478
developmental disabilities, at a facility certified by the 479
department of developmental disabilities as being qualified to 480
treat intellectual disabilities, at a public or private 481
intellectual disabilities facility, or by a psychiatrist or 482
another intellectual disabilities professional. In any case, the 483
order may restrict the defendant's freedom of movement as the 484
court considers necessary. The prosecutor in the defendant's 485
case shall send to the chief clinical officer of the hospital, 486
facility, or agency where the defendant is placed by the 487
department of mental health and addiction services, or to the 488
managing officer of the institution, the director of the program 489
or facility, or the person to which the defendant is committed, 490
copies of relevant police reports and other background 491
information that pertains to the defendant and is available to 492
the prosecutor unless the prosecutor determines that the release 493
of any of the information in the police reports or any of the 494
other background information to unauthorized persons would 495
interfere with the effective prosecution of any person or would 496
create a substantial risk of harm to any person. 497

In determining the place of commitment, the court shall 498

consider the extent to which the person is a danger to the 499
person and to others, the need for security, the availability of 500
housing and supportive services, including outpatient mental 501
health services in the community, and the type of crime involved 502
and shall order the least restrictive alternative available that 503
is consistent with public safety and treatment goals. In 504
weighing these factors, the court shall give preference to 505
protecting public safety and the availability of housing and 506
supportive services. 507

(c) If the defendant is found incompetent to stand trial, 508
if the chief clinical officer of the hospital, facility, or 509
agency where the defendant is placed, or the managing officer of 510
the institution, the director of the program or facility, or the 511
person to which the defendant is committed for treatment or 512
continuing evaluation and treatment under division (B)(1)(b) of 513
this section determines that medication is necessary to restore 514
the defendant's competency to stand trial, and if the defendant 515
lacks the capacity to give informed consent or refuses 516
medication, the chief clinical officer of the hospital, 517
facility, or agency where the defendant is placed, or the 518
managing officer of the institution, the director of the program 519
or facility, or the person to which the defendant is committed 520
for treatment or continuing evaluation and treatment may 521
petition the court for authorization for the involuntary 522
administration of medication. The court shall hold a hearing on 523
the petition within five days of the filing of the petition if 524
the petition was filed in a municipal court or a county court 525
regarding an incompetent defendant charged with a misdemeanor or 526
within ten days of the filing of the petition if the petition 527
was filed in a court of common pleas regarding an incompetent 528
defendant charged with a felony offense. Following the hearing, 529

the court may authorize the involuntary administration of 530
medication or may dismiss the petition. 531

(2) If the court finds that the defendant is incompetent 532
to stand trial and that, even if the defendant is provided with 533
a course of treatment, there is not a substantial probability 534
that the defendant will become competent to stand trial within 535
one year, the court shall order the discharge of the defendant, 536
unless upon motion of the prosecutor or on its own motion, the 537
court either seeks to retain jurisdiction over the defendant 538
pursuant to section 2945.39 of the Revised Code or files an 539
affidavit in the probate court for the civil commitment of the 540
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 541
alleging that the defendant is a mentally ill person subject to 542
court order or a person with an intellectual disability subject 543
to institutionalization by court order. If an affidavit is filed 544
in the probate court, the trial court shall send to the probate 545
court copies of all written reports of the defendant's mental 546
condition that were prepared pursuant to section 2945.371 of the 547
Revised Code. 548

The trial court may issue the temporary order of detention 549
that a probate court may issue under section 5122.11 or 5123.71 550
of the Revised Code, to remain in effect until the probable 551
cause or initial hearing in the probate court. Further 552
proceedings in the probate court are civil proceedings governed 553
by Chapter 5122. or 5123. of the Revised Code. 554

(C) No defendant shall be required to undergo treatment, 555
including any continuing evaluation and treatment, under 556
division (B)(1) of this section for longer than whichever of the 557
following periods is applicable: 558

(1) One year, if the most serious offense with which the 559

defendant is charged is one of the following offenses: 560

(a) Aggravated murder, murder, or an offense of violence 561
for which a sentence of death or life imprisonment may be 562
imposed; 563

(b) An offense of violence that is a felony of the first 564
or second degree; 565

(c) A conspiracy to commit, an attempt to commit, or 566
complicity in the commission of an offense described in division 567
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 568
complicity is a felony of the first or second degree. 569

(2) Six months, if the most serious offense with which the 570
defendant is charged is a felony other than a felony described 571
in division (C) (1) of this section; 572

(3) Sixty days, if the most serious offense with which the 573
defendant is charged is a misdemeanor of the first or second 574
degree; 575

(4) Thirty days, if the most serious offense with which 576
the defendant is charged is a misdemeanor of the third or fourth 577
degree, a minor misdemeanor, or an unclassified misdemeanor. 578

(D) Any defendant who is committed pursuant to this 579
section shall not voluntarily admit the defendant or be 580
voluntarily admitted to a hospital or institution pursuant to 581
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 582
Code. 583

(E) Except as otherwise provided in this division, a 584
defendant who is charged with an offense and is committed by the 585
court under this section to the department of mental health and 586
addiction services or is committed to an institution or facility 587

for the treatment of intellectual disabilities shall not be 588
granted unsupervised on-grounds movement, supervised off-grounds 589
movement, or nonsecured status except in accordance with the 590
court order. The court may grant a defendant supervised off- 591
grounds movement to obtain medical treatment or specialized 592
habilitation treatment services if the person who supervises the 593
treatment or the continuing evaluation and treatment of the 594
defendant ordered under division (B)(1)(a) of this section 595
informs the court that the treatment or continuing evaluation 596
and treatment cannot be provided at the hospital or facility 597
where the defendant is placed by the department of mental health 598
and addiction services or the institution or facility to which 599
the defendant is committed. The chief clinical officer of the 600
hospital or facility where the defendant is placed by the 601
department of mental health and addiction services or the 602
managing officer of the institution or director of the facility 603
to which the defendant is committed, or a designee of any of 604
those persons, may grant a defendant movement to a medical 605
facility for an emergency medical situation with appropriate 606
supervision to ensure the safety of the defendant, staff, and 607
community during that emergency medical situation. The chief 608
clinical officer of the hospital or facility where the defendant 609
is placed by the department of mental health and addiction 610
services or the managing officer of the institution or director 611
of the facility to which the defendant is committed shall notify 612
the court within twenty-four hours of the defendant's movement 613
to the medical facility for an emergency medical situation under 614
this division. 615

(F) The person who supervises the treatment or continuing 616
evaluation and treatment of a defendant ordered to undergo 617
treatment or continuing evaluation and treatment under division 618

(B) (1) (a) of this section shall file a written report with the 619
court at the following times: 620

(1) Whenever the person believes the defendant is capable 621
of understanding the nature and objective of the proceedings 622
against the defendant and of assisting in the defendant's 623
defense; 624

(2) For a felony offense, fourteen days before expiration 625
of the maximum time for treatment as specified in division (C) 626
of this section and fourteen days before the expiration of the 627
maximum time for continuing evaluation and treatment as 628
specified in division (B) (1) (a) of this section, and, for a 629
misdemeanor offense, ten days before the expiration of the 630
maximum time for treatment, as specified in division (C) of this 631
section; 632

(3) At a minimum, after each six months of treatment; 633

(4) Whenever the person who supervises the treatment or 634
continuing evaluation and treatment of a defendant ordered under 635
division (B) (1) (a) of this section believes that there is not a 636
substantial probability that the defendant will become capable 637
of understanding the nature and objective of the proceedings 638
against the defendant or of assisting in the defendant's defense 639
even if the defendant is provided with a course of treatment. 640

(G) A report under division (F) of this section shall 641
contain the examiner's findings, the facts in reasonable detail 642
on which the findings are based, and the examiner's opinion as 643
to the defendant's capability of understanding the nature and 644
objective of the proceedings against the defendant and of 645
assisting in the defendant's defense. If, in the examiner's 646
opinion, the defendant remains incapable of understanding the 647

nature and objective of the proceedings against the defendant 648
and of assisting in the defendant's defense and there is a 649
substantial probability that the defendant will become capable 650
of understanding the nature and objective of the proceedings 651
against the defendant and of assisting in the defendant's 652
defense if the defendant is provided with a course of treatment, 653
if in the examiner's opinion the defendant remains mentally ill 654
or continues to have an intellectual disability, and if the 655
maximum time for treatment as specified in division (C) of this 656
section has not expired, the report also shall contain the 657
examiner's recommendation as to the least restrictive placement 658
or commitment alternative that is consistent with the 659
defendant's treatment needs for restoration to competency and 660
with the safety of the community. The court shall provide copies 661
of the report to the prosecutor and defense counsel. 662

(H) If a defendant is committed pursuant to division (B) 663
(1) of this section, within ten days after the treating 664
physician of the defendant or the examiner of the defendant who 665
is employed or retained by the treating facility advises that 666
there is not a substantial probability that the defendant will 667
become capable of understanding the nature and objective of the 668
proceedings against the defendant or of assisting in the 669
defendant's defense even if the defendant is provided with a 670
course of treatment, within ten days after the expiration of the 671
maximum time for treatment as specified in division (C) of this 672
section, within ten days after the expiration of the maximum 673
time for continuing evaluation and treatment as specified in 674
division (B) (1) (a) of this section, within thirty days after a 675
defendant's request for a hearing that is made after six months 676
of treatment, or within thirty days after being advised by the 677
treating physician or examiner that the defendant is competent 678

to stand trial, whichever is the earliest, the court shall 679
conduct another hearing to determine if the defendant is 680
competent to stand trial and shall do whichever of the following 681
is applicable: 682

(1) If the court finds that the defendant is competent to 683
stand trial, the defendant shall be proceeded against as 684
provided by law. 685

(2) If the court finds that the defendant is incompetent 686
to stand trial, but that there is a substantial probability that 687
the defendant will become competent to stand trial if the 688
defendant is provided with a course of treatment, and the 689
maximum time for treatment as specified in division (C) of this 690
section has not expired, the court, after consideration of the 691
examiner's recommendation, shall order that treatment be 692
continued, may change the facility or program at which the 693
treatment is to be continued, and shall specify whether the 694
treatment is to be continued at the same or a different facility 695
or program. 696

(3) If the court finds that the defendant is incompetent 697
to stand trial, if the defendant is charged with an offense 698
listed in division (C)(1) of this section, and if the court 699
finds that there is not a substantial probability that the 700
defendant will become competent to stand trial even if the 701
defendant is provided with a course of treatment, or if the 702
maximum time for treatment relative to that offense as specified 703
in division (C) of this section has expired, further proceedings 704
shall be as provided in sections 2945.39, 2945.401, and 2945.402 705
of the Revised Code. 706

(4) If the court finds that the defendant is incompetent 707
to stand trial, if the most serious offense with which the 708

defendant is charged is a misdemeanor or a felony other than a 709
felony listed in division (C)(1) of this section, and if the 710
court finds that there is not a substantial probability that the 711
defendant will become competent to stand trial even if the 712
defendant is provided with a course of treatment, or if the 713
maximum time for treatment relative to that offense as specified 714
in division (C) of this section has expired, the court shall 715
dismiss the indictment, information, or complaint against the 716
defendant. A dismissal under this division is not a bar to 717
further prosecution based on the same conduct. The court shall 718
discharge the defendant unless the court or prosecutor files an 719
affidavit in probate court for civil commitment pursuant to 720
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 721
civil commitment is filed, the court may detain the defendant 722
for ten days pending civil commitment- and shall send to the 723
probate court copies of all written reports of the defendant's 724
mental condition prepared pursuant to section 2945.371 of the 725
Revised Code. 726

All of the following provisions apply to persons charged 727
with a misdemeanor or a felony other than a felony listed in 728
division (C)(1) of this section who are committed by the probate 729
court subsequent to the court's or prosecutor's filing of an 730
affidavit for civil commitment under authority of this division: 731

(a) The chief clinical officer of the entity, hospital, or 732
facility, the managing officer of the institution, the director 733
of the program, or the person to which the defendant is 734
committed or admitted shall do all of the following: 735

(i) Notify the prosecutor, in writing, of the discharge of 736
the defendant, send the notice at least ten days prior to the 737
discharge unless the discharge is by the probate court, and 738

state in the notice the date on which the defendant will be 739
discharged; 740

(ii) Notify the prosecutor, in writing, when the defendant 741
is absent without leave or is granted unsupervised, off-grounds 742
movement, and send this notice promptly after the discovery of 743
the absence without leave or prior to the granting of the 744
unsupervised, off-grounds movement, whichever is applicable; 745

(iii) Notify the prosecutor, in writing, of the change of 746
the defendant's commitment or admission to voluntary status, 747
send the notice promptly upon learning of the change to 748
voluntary status, and state in the notice the date on which the 749
defendant was committed or admitted on a voluntary status. 750

(b) Upon receiving notice that the defendant will be 751
granted unsupervised, off-grounds movement, the prosecutor 752
either shall re-indict the defendant or promptly notify the 753
court that the prosecutor does not intend to prosecute the 754
charges against the defendant. 755

(I) If a defendant is convicted of a crime and sentenced 756
to a jail or workhouse, the defendant's sentence shall be 757
reduced by the total number of days the defendant is confined 758
for evaluation to determine the defendant's competence to stand 759
trial or treatment under this section and sections 2945.37 and 760
2945.371 of the Revised Code or by the total number of days the 761
defendant is confined for evaluation to determine the 762
defendant's mental condition at the time of the offense charged. 763

Sec. 4732.40. The "Psychology Interjurisdictional Compact 764
(PSYPACT)" is hereby ratified, enacted into law, and entered 765
into by the state of Ohio as a party to the compact with any 766
other state that has legally joined in the compact as follows: 767

<u>PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)</u>	768
<u>ARTICLE I</u>	769
<u>PURPOSE</u>	770
<u>Whereas, states license psychologists, in order to protect</u>	771
<u>the public through verification of education, training and</u>	772
<u>experience and ensure accountability for professional practice;</u>	773
<u>and</u>	774
<u>Whereas, this Compact is intended to regulate the day to</u>	775
<u>day practice of telepsychology (i.e. the provision of</u>	776
<u>psychological services using telecommunication technologies) by</u>	777
<u>psychologists across state boundaries in the performance of</u>	778
<u>their psychological practice as assigned by an appropriate</u>	779
<u>authority; and</u>	780
<u>Whereas, this Compact is intended to regulate the</u>	781
<u>temporary in-person, face-to-face practice of psychology by</u>	782
<u>psychologists across state boundaries for 30 days within a</u>	783
<u>calendar year in the performance of their psychological practice</u>	784
<u>as assigned by an appropriate authority;</u>	785
<u>Whereas, this Compact is intended to authorize State</u>	786
<u>Psychology Regulatory Authorities to afford legal recognition,</u>	787
<u>in a manner consistent with the terms of the Compact, to</u>	788
<u>psychologists licensed in another state;</u>	789
<u>Whereas, this Compact recognizes that states have a vested</u>	790
<u>interest in protecting the public's health and safety through</u>	791
<u>their licensing and regulation of psychologists and that such</u>	792
<u>state regulation will best protect public health and safety;</u>	793
<u>Whereas, this Compact does not apply when a psychologist</u>	794
<u>is licensed in both the Home and Receiving States; and</u>	795

Whereas, this Compact does not apply to permanent in- 796
person, face-to-face practice, it does allow for authorization 797
of temporary psychological practice. 798

Consistent with these principles, this Compact is designed 799
to achieve the following purposes and objectives: 800

1. Increase public access to professional psychological 801
services by allowing for telepsychological practice across state 802
lines as well as temporary in-person, face-to-face services into 803
a state which the psychologist is not licensed to practice 804
psychology; 805

2. Enhance the states' ability to protect the public's 806
health and safety, especially client/patient safety; 807

3. Encourage the cooperation of Compact States in the 808
areas of psychology licensure and regulation; 809

4. Facilitate the exchange of information between Compact 810
States regarding psychologist licensure, adverse actions and 811
disciplinary history; 812

5. Promote compliance with the laws governing 813
psychological practice in each Compact State; and 814

6. Invest all Compact States with the authority to hold 815
licensed psychologists accountable through the mutual 816
recognition of Compact State licenses. 817

ARTICLE II 818

DEFINITIONS 819

A. "Adverse Action" means: Any action taken by a State 820
Psychology Regulatory Authority which finds a violation of a 821
statute or regulation that is identified by the State Psychology 822

Regulatory Authority as discipline and is a matter of public 823
record. 824

B. "Association of State and Provincial Psychology Boards 825
(ASPPB)" means: the recognized membership organization composed 826
of State and Provincial Psychology Regulatory Authorities 827
responsible for the licensure and registration of psychologists 828
throughout the United States and Canada. 829

C. "Authority to Practice Interjurisdictional 830
Telepsychology" means: a licensed psychologist's authority to 831
practice telepsychology, within the limits authorized under this 832
Compact, in another Compact State. 833

D. "Bylaws" means: those Bylaws established by the 834
Psychology Interjurisdictional Compact Commission pursuant to 835
Article X for its governance, or for directing and controlling 836
its actions and conduct. 837

E. "Client/Patient" means: the recipient of psychological 838
services, whether psychological services are delivered in the 839
context of healthcare, corporate, supervision, and/or consulting 840
services. 841

F. "Commissioner" means: the voting representative 842
appointed by each State Psychology Regulatory Authority pursuant 843
to Article X. 844

G. "Compact State" means: a state, the District of 845
Columbia, or United States territory that has enacted this 846
Compact legislation and which has not withdrawn pursuant to 847
Article XIII, Section C or been terminated pursuant to Article 848
XII, Section B. 849

H. "Coordinated Licensure Information System" also 850
referred to as "Coordinated Database" means: an integrated 851

process for collecting, storing, and sharing information on 852
psychologists' licensure and enforcement activities related to 853
psychology licensure laws, which is administered by the 854
recognized membership organization composed of State and 855
Provincial Psychology Regulatory Authorities. 856

I. "Confidentiality" means: the principle that data or 857
information is not made available or disclosed to unauthorized 858
persons and/or processes. 859

J. "Day" means: any part of a day in which psychological 860
work is performed. 861

K. "Distant State" means: the Compact State where a 862
psychologist is physically present (not through the use of 863
telecommunications technologies), to provide temporary in- 864
person, face-to-face psychological services. 865

L. "E.Passport" means: a certificate issued by the 866
Association of State and Provincial Psychology Boards (ASPPB) 867
that promotes the standardization in the criteria of 868
interjurisdictional telepsychology practice and facilitates the 869
process for licensed psychologists to provide telepsychological 870
services across state lines. 871

M. "Executive Board" means: a group of directors elected 872
or appointed to act on behalf of, and within the powers granted 873
to them by, the Commission. 874

N. "Home State" means: a Compact State where a 875
psychologist is licensed to practice psychology. If the 876
psychologist is licensed in more than one Compact State and is 877
practicing under the Authorization to Practice 878
Interjurisdictional Telepsychology, the Home State is the 879
Compact State where the psychologist is physically present when 880

the telepsychological services are delivered. If the 881
psychologist is licensed in more than one Compact State and is 882
practicing under the Temporary Authorization to Practice, the 883
Home State is any Compact State where the psychologist is 884
licensed. 885

O. "Identity History Summary" means: a summary of 886
information retained by the FBI, or other designee with similar 887
authority, in connection with arrests and, in some instances, 888
federal employment, naturalization, or military service. 889

P. "In-Person, Face-to-Face" means: interactions in which 890
the psychologist and the client/patient are in the same physical 891
space and which does not include interactions that may occur 892
through the use of telecommunication technologies. 893

Q. "Interjurisdictional Practice Certificate (IPC)" means: 894
a certificate issued by the Association of State and Provincial 895
Psychology Boards (ASPPB) that grants temporary authority to 896
practice based on notification to the State Psychology 897
Regulatory Authority of intention to practice temporarily, and 898
verification of one's qualifications for such practice. 899

R. "License" means: authorization by a State Psychology 900
Regulatory Authority to engage in the independent practice of 901
psychology, which would be unlawful without the authorization. 902

S. "Non-Compact State" means: any State which is not at 903
the time a Compact State. 904

T. "Psychologist" means: an individual licensed for the 905
independent practice of psychology. 906

U. "Psychology Interjurisdictional Compact Commission" 907
also referred to as "Commission" means: the national 908
administration of which all Compact States are members. 909

V. "Receiving State" means: a Compact State where the 910
client/patient is physically located when the telepsychological 911
services are delivered. 912

W. "Rule" means: a written statement by the Psychology 913
Interjurisdictional Compact Commission promulgated pursuant to 914
Article XI of the Compact that is of general applicability, 915
implements, interprets, or prescribes a policy or provision of 916
the Compact, or an organizational, procedural, or practice 917
requirement of the Commission and has the force and effect of 918
statutory law in a Compact State, and includes the amendment, 919
repeal or suspension of an existing rule. 920

X. "Significant Investigatory Information" means: 921

1. investigative information that a State Psychology 922
Regulatory Authority, after a preliminary inquiry that includes 923
notification and an opportunity to respond if required by state 924
law, has reason to believe, if proven true, would indicate more 925
than a violation of state statute or ethics code that would be 926
considered more substantial than minor infraction; or 927

2. investigative information that indicates that the 928
psychologist represents an immediate threat to public health and 929
safety regardless of whether the psychologist has been notified 930
and/or had an opportunity to respond. 931

Y. "State" means: a state, commonwealth, territory, or 932
possession of the United States, the District of Columbia. 933

Z. "State Psychology Regulatory Authority" means: the 934
Board, office or other agency with the legislative mandate to 935
license and regulate the practice of psychology. 936

AA. "Telepsychology" means: the provision of psychological 937
services using telecommunication technologies. 938

BB. "Temporary Authorization to Practice" means: a 939
licensed psychologist's authority to conduct temporary in- 940
person, face-to-face practice, within the limits authorized 941
under this Compact, in another Compact State. 942

CC. "Temporary In-Person, Face-to-Face Practice" means: 943
where a psychologist is physically present (not through the use 944
of telecommunications technologies), in the Distant State to 945
provide for the practice of psychology for 30 days within a 946
calendar year and based on notification to the Distant State. 947

ARTICLE III 948

HOME STATE LICENSURE 949

A. The Home State shall be a Compact State where a 950
psychologist is licensed to practice psychology. 951

B. A psychologist may hold one or more Compact State 952
licenses at a time. If the psychologist is licensed in more than 953
one Compact State, the Home State is the Compact State where the 954
psychologist is physically present when the services are 955
delivered as authorized by the Authority to Practice 956
Interjurisdictional Telepsychology under the terms of this 957
Compact. 958

C. Any Compact State may require a psychologist not 959
previously licensed in a Compact State to obtain and retain a 960
license to be authorized to practice in the Compact State under 961
circumstances not authorized by the Authority to Practice 962
Interjurisdictional Telepsychology under the terms of this 963
Compact. 964

D. Any Compact State may require a psychologist to obtain 965
and retain a license to be authorized to practice in a Compact 966
State under circumstances not authorized by Temporary 967

Authorization to Practice under the terms of this Compact. 968

E. A Home State's license authorizes a psychologist to 969
practice in a Receiving State under the Authority to Practice 970
Interjurisdictional Telepsychology only if the Compact State: 971

1. Currently requires the psychologist to hold an active 972
E.Passport; 973

2. Has a mechanism in place for receiving and 974
investigating complaints about licensed individuals; 975

3. Notifies the Commission, in compliance with the terms 976
herein, of any adverse action or significant investigatory 977
information regarding a licensed individual; 978

4. Requires an Identity History Summary of all applicants 979
at initial licensure, including the use of the results of 980
fingerprints or other biometric data checks compliant with the 981
requirements of the Federal Bureau of Investigation FBI, or 982
other designee with similar authority, no later than ten years 983
after activation of the Compact; and 984

5. Complies with the Bylaws and Rules of the Commission. 985

F. A Home State's license grants Temporary Authorization 986
to Practice to a psychologist in a Distant State only if the 987
Compact State: 988

1. Currently requires the psychologist to hold an active 989
IPC; 990

2. Has a mechanism in place for receiving and 991
investigating complaints about licensed individuals; 992

3. Notifies the Commission, in compliance with the terms 993
herein, of any adverse action or significant investigatory 994

<u>information regarding a licensed individual;</u>	995
<u>4. Requires an Identity History Summary of all applicants</u>	996
<u>at initial licensure, including the use of the results of</u>	997
<u>fingerprints or other biometric data checks compliant with the</u>	998
<u>requirements of the Federal Bureau of Investigation FBI, or</u>	999
<u>other designee with similar authority, no later than ten years</u>	1000
<u>after activation of the Compact; and</u>	1001
<u>5. Complies with the Bylaws and Rules of the Commission.</u>	1002
<u>ARTICLE IV</u>	1003
<u>COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY</u>	1004
<u>A. Compact States shall recognize the right of a</u>	1005
<u>psychologist, licensed in a Compact State in conformance with</u>	1006
<u>Article III, to practice telepsychology in other Compact States</u>	1007
<u>(Receiving States) in which the psychologist is not licensed,</u>	1008
<u>under the Authority to Practice Interjurisdictional</u>	1009
<u>Telepsychology as provided in the Compact.</u>	1010
<u>B. To exercise the Authority to Practice</u>	1011
<u>Interjurisdictional Telepsychology under the terms and</u>	1012
<u>provisions of this Compact, a psychologist licensed to practice</u>	1013
<u>in a Compact State must:</u>	1014
<u>1. Hold a graduate degree in psychology from an institute</u>	1015
<u>of higher education that was, at the time the degree was</u>	1016
<u>awarded:</u>	1017
<u>a. Regionally accredited by an accrediting body recognized</u>	1018
<u>by the U.S. Department of Education to grant graduate degrees,</u>	1019
<u>OR authorized by Provincial Statute or Royal Charter to grant</u>	1020
<u>doctoral degrees; OR</u>	1021
<u>b. A foreign college or university deemed to be equivalent</u>	1022

to 1 (a) above by a foreign credential evaluation service that 1023
is a member of the National Association of Credential Evaluation 1024
Services (NACES) or by a recognized foreign credential 1025
evaluation service; AND 1026

2. Hold a graduate degree in psychology that meets the 1027
following criteria: 1028

a. The program, wherever it may be administratively 1029
housed, must be clearly identified and labeled as a psychology 1030
program. Such a program must specify in pertinent institutional 1031
catalogues and brochures its intent to educate and train 1032
professional psychologists; 1033

b. The psychology program must stand as a recognizable, 1034
coherent, organizational entity within the institution; 1035

c. There must be a clear authority and primary 1036
responsibility for the core and specialty areas whether or not 1037
the program cuts across administrative lines; 1038

d. The program must consist of an integrated, organized 1039
sequence of study; 1040

e. There must be an identifiable psychology faculty 1041
sufficient in size and breadth to carry out its 1042
responsibilities; 1043

f. The designated director of the program must be a 1044
psychologist and a member of the core faculty; 1045

g. The program must have an identifiable body of students 1046
who are matriculated in that program for a degree; 1047

h. The program must include supervised practicum, 1048
internship, or field training appropriate to the practice of 1049
psychology; 1050

i. The curriculum shall encompass a minimum of three 1051
academic years of full-time graduate study for doctoral degree 1052
and a minimum of one academic year of full-time graduate study 1053
for master's degree; 1054

j. The program includes an acceptable residency as defined 1055
by the Rules of the Commission. 1056

3. Possess a current, full and unrestricted license to 1057
practice psychology in a Home State which is a Compact State; 1058

4. Have no history of adverse action that violate the 1059
Rules of the Commission; 1060

5. Have no criminal record history reported on an Identity 1061
History Summary that violates the Rules of the Commission; 1062

6. Possess a current, active E.Passport; 1063

7. Provide attestations in regard to areas of intended 1064
practice, conformity with standards of practice, competence in 1065
telepsychology technology; criminal background; and knowledge 1066
and adherence to legal requirements in the home and receiving 1067
states, and provide a release of information to allow for 1068
primary source verification in a manner specified by the 1069
Commission; and 1070

8. Meet other criteria as defined by the Rules of the 1071
Commission. 1072

C. The Home State maintains authority over the license of 1073
any psychologist practicing into a Receiving State under the 1074
Authority to Practice Interjurisdictional Telepsychology. 1075

D. A psychologist practicing into a Receiving State under 1076
the Authority to Practice Interjurisdictional Telepsychology 1077
will be subject to the Receiving State's scope of practice. A 1078

Receiving State may, in accordance with that state's due process 1079
law, limit or revoke a psychologist's Authority to Practice 1080
Interjurisdictional Telepsychology in the Receiving State and 1081
may take any other necessary actions under the Receiving State's 1082
applicable law to protect the health and safety of the Receiving 1083
State's citizens. If a Receiving State takes action, the state 1084
shall promptly notify the Home State and the Commission. 1085

E. If a psychologist's license in any Home State, another 1086
Compact State, or any Authority to Practice Interjurisdictional 1087
Telepsychology in any Receiving State, is restricted, suspended 1088
or otherwise limited, the E.Passport shall be revoked and 1089
therefore the psychologist shall not be eligible to practice 1090
telepsychology in a Compact State under the Authority to 1091
Practice Interjurisdictional Telepsychology. 1092

ARTICLE V 1093

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE 1094

A. Compact States shall also recognize the right of a 1095
psychologist, licensed in a Compact State in conformance with 1096
Article III, to practice temporarily in other Compact States 1097
(Distant States) in which the psychologist is not licensed, as 1098
provided in the Compact. 1099

B. To exercise the Temporary Authorization to Practice 1100
under the terms and provisions of this Compact, a psychologist 1101
licensed to practice in a Compact State must: 1102

1. Hold a graduate degree in psychology from an institute 1103
of higher education that was, at the time the degree was 1104
awarded: 1105

a. Regionally accredited by an accrediting body recognized 1106
by the U.S. Department of Education to grant graduate degrees, 1107

OR authorized by Provincial Statute or Royal Charter to grant 1108
doctoral degrees; OR 1109

b. A foreign college or university deemed to be equivalent 1110
to 1 (a) above by a foreign credential evaluation service that 1111
is a member of the National Association of Credential Evaluation 1112
Services (NACES) or by a recognized foreign credential 1113
evaluation service; AND 1114

2. Hold a graduate degree in psychology that meets the 1115
following criteria: 1116

a. The program, wherever it may be administratively 1117
housed, must be clearly identified and labeled as a psychology 1118
program. Such a program must specify in pertinent institutional 1119
catalogues and brochures its intent to educate and train 1120
professional psychologists; 1121

b. The psychology program must stand as a recognizable, 1122
coherent, organizational entity within the institution; 1123

c. There must be a clear authority and primary 1124
responsibility for the core and specialty areas whether or not 1125
the program cuts across administrative lines; 1126

d. The program must consist of an integrated, organized 1127
sequence of study; 1128

e. There must be an identifiable psychology faculty 1129
sufficient in size and breadth to carry out its 1130
responsibilities; 1131

f. The designated director of the program must be a 1132
psychologist and a member of the core faculty; 1133

g. The program must have an identifiable body of students 1134
who are matriculated in that program for a degree; 1135

h. The program must include supervised practicum, 1136
internship, or field training appropriate to the practice of 1137
psychology; 1138

i. The curriculum shall encompass a minimum of three 1139
academic years of full-time graduate study for doctoral degrees 1140
and a minimum of one academic year of full-time graduate study 1141
for master's degree; 1142

j. The program includes an acceptable residency as defined 1143
by the Rules of the Commission. 1144

3. Possess a current, full and unrestricted license to 1145
practice psychology in a Home State which is a Compact State; 1146

4. No history of adverse action that violate the Rules of 1147
the Commission; 1148

5. No criminal record history that violates the Rules of 1149
the Commission; 1150

6. Possess a current, active IPC; 1151

7. Provide attestations in regard to areas of intended 1152
practice and work experience and provide a release of 1153
information to allow for primary source verification in a manner 1154
specified by the Commission; and 1155

8. Meet other criteria as defined by the Rules of the 1156
Commission. 1157

C. A psychologist practicing into a Distant State under 1158
the Temporary Authorization to Practice shall practice within 1159
the scope of practice authorized by the Distant State. 1160

D. A psychologist practicing into a Distant State under 1161
the Temporary Authorization to Practice will be subject to the 1162

Distant State's authority and law. A Distant State may, in 1163
accordance with that state's due process law, limit or revoke a 1164
psychologist's Temporary Authorization to Practice in the 1165
Distant State and may take any other necessary actions under the 1166
Distant State's applicable law to protect the health and safety 1167
of the Distant State's citizens. If a Distant State takes 1168
action, the state shall promptly notify the Home State and the 1169
Commission. 1170

E. If a psychologist's license in any Home State, another 1171
Compact State, or any Temporary Authorization to Practice in any 1172
Distant State, is restricted, suspended or otherwise limited, 1173
the IPC shall be revoked and therefore the psychologist shall 1174
not be eligible to practice in a Compact State under the 1175
Temporary Authorization to Practice. 1176

ARTICLE VI 1177

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE 1178

A. A psychologist may practice in a Receiving State under 1179
the Authority to Practice Interjurisdictional Telepsychology 1180
only in the performance of the scope of practice for psychology 1181
as assigned by an appropriate State Psychology Regulatory 1182
Authority, as defined in the Rules of the Commission, and under 1183
the following circumstances: 1184

1. The psychologist initiates a client/patient contact in 1185
a Home State via telecommunications technologies with a 1186
client/patient in a Receiving State; 1187

2. Other conditions regarding telepsychology as determined 1188
by Rules promulgated by the Commission. 1189

ARTICLE VII 1190

ADVERSE ACTIONS

A. A Home State shall have the power to impose adverse
action against a psychologist's license issued by the Home
State. A Distant State shall have the power to take adverse
action on a psychologist's Temporary Authorization to Practice
within that Distant State.

B. A Receiving State may take adverse action on a
psychologist's Authority to Practice Interjurisdictional
Telepsychology within that Receiving State. A Home State may
take adverse action against a psychologist based on an adverse
action taken by a Distant State regarding temporary in-person,
face-to-face practice.

C. If a Home State takes adverse action against a
psychologist's license, that psychologist's Authority to
Practice Interjurisdictional Telepsychology is terminated and
the E.Passport is revoked. Furthermore, that psychologist's
Temporary Authorization to Practice is terminated and the IPC is
revoked.

1. All Home State disciplinary orders which impose adverse
action shall be reported to the Commission in accordance with
the Rules promulgated by the Commission. A Compact State shall
report adverse actions in accordance with the Rules of the
Commission.

2. In the event discipline is reported on a psychologist,
the psychologist will not be eligible for telepsychology or
temporary in-person, face-to-face practice in accordance with
the Rules of the Commission.

3. Other actions may be imposed as determined by the Rules
promulgated by the Commission.

D. A Home State's Psychology Regulatory Authority shall 1220
investigate and take appropriate action with respect to reported 1221
inappropriate conduct engaged in by a licensee which occurred in 1222
a Receiving State as it would if such conduct had occurred by a 1223
licensee within the Home State. In such cases, the Home State's 1224
law shall control in determining any adverse action against a 1225
psychologist's license. 1226

E. A Distant State's Psychology Regulatory Authority shall 1227
investigate and take appropriate action with respect to reported 1228
inappropriate conduct engaged in by a psychologist practicing 1229
under Temporary Authorization Practice which occurred in that 1230
Distant State as it would if such conduct had occurred by a 1231
licensee within the Home State. In such cases, Distant States 1232
law shall control in determining any adverse action against a 1233
psychologist's Temporary Authorization to Practice. 1234

F. Nothing in this Compact shall override a Compact 1235
State's decision that a psychologist's participation in an 1236
alternative program may be used in lieu of adverse action and 1237
that such participation shall remain non-public if required by 1238
the Compact State's law. Compact States must require 1239
psychologists who enter any alternative programs to not provide 1240
telepsychology services under the Authority to Practice 1241
Interjurisdictional Telepsychology or provide temporary 1242
psychological services under the Temporary Authorization to 1243
Practice in any other Compact State during the term of the 1244
alternative program. 1245

G. No other judicial or administrative remedies shall be 1246
available to a psychologist in the event a Compact State imposes 1247
an adverse action pursuant to subsection C, above. 1248

ARTICLE VIII 1249

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY 1250

REGULATORY AUTHORITY 1251

A. In addition to any other powers granted under state 1252
law, a Compact State's Psychology Regulatory Authority shall 1253
have the authority under this Compact to: 1254

1. Issue subpoenas, for both hearings and investigations, 1255
which require the attendance and testimony of witnesses and the 1256
production of evidence. Subpoenas issued by a Compact State's 1257
Psychology Regulatory Authority for the attendance and testimony 1258
of witnesses, and/or the production of evidence from another 1259
Compact State shall be enforced in the latter state by any court 1260
of competent jurisdiction, according to that court's practice 1261
and procedure in considering subpoenas issued in its own 1262
proceedings. The issuing State Psychology Regulatory Authority 1263
shall pay any witness fees, travel expenses, mileage and other 1264
fees required by the service statutes of the state where the 1265
witnesses and/or evidence are located; and 1266

2. Issue cease and desist and/or injunctive relief orders 1267
to revoke a psychologist's Authority to Practice 1268
Interjurisdictional Telepsychology and/or Temporary 1269
Authorization to Practice. 1270

3. During the course of any investigation, a psychologist 1271
may not change his/her Home State licensure. A Home State 1272
Psychology Regulatory Authority is authorized to complete any 1273
pending investigations of a psychologist and to take any actions 1274
appropriate under its law. The Home State Psychology Regulatory 1275
Authority shall promptly report the conclusions of such 1276
investigations to the Commission. Once an investigation has been 1277
completed, and pending the outcome of said investigation, the 1278
psychologist may change his/her Home State licensure. The 1279

Commission shall promptly notify the new Home State of any such 1280
decisions as provided in the Rules of the Commission. All 1281
information provided to the Commission or distributed by Compact 1282
States pursuant to the psychologist shall be confidential, filed 1283
under seal and used for investigatory or disciplinary matters. 1284
The Commission may create additional rules for mandated or 1285
discretionary sharing of information by Compact States. 1286

ARTICLE IX 1287

COORDINATED LICENSURE INFORMATION SYSTEM 1288

A. The Commission shall provide for the development and 1289
maintenance of a Coordinated Licensure Information System 1290
(Coordinated Database) and reporting system containing licensure 1291
and disciplinary action information on all psychologists 1292
individuals to whom this Compact is applicable in all Compact 1293
States as defined by the Rules of the Commission. 1294

B. Notwithstanding any other provision of state law to the 1295
contrary, a Compact State shall submit a uniform data set to the 1296
Coordinated Database on all licensees as required by the Rules 1297
of the Commission, including: 1298

1. Identifying information; 1299
2. Licensure data; 1300
3. Significant investigatory information; 1301
4. Adverse actions against a psychologist's license; 1302
5. An indicator that a psychologist's Authority to 1303
Practice Interjurisdictional Telepsychology and/or Temporary 1304
Authorization to Practice is revoked; 1305
6. Non-confidential information related to alternative 1306

program participation information; 1307

7. Any denial of application for licensure, and the 1308
reasons for such denial; and 1309

8. Other information which may facilitate the 1310
administration of this Compact, as determined by the Rules of 1311
the Commission. 1312

C. The Coordinated Database administrator shall promptly 1313
notify all Compact States of any adverse action taken against, 1314
or significant investigative information on, any licensee in a 1315
Compact State. 1316

D. Compact States reporting information to the Coordinated 1317
Database may designate information that may not be shared with 1318
the public without the express permission of the Compact State 1319
reporting the information. 1320

E. Any information submitted to the Coordinated Database 1321
that is subsequently required to be expunged by the law of the 1322
Compact State reporting the information shall be removed from 1323
the Coordinated Database. 1324

ARTICLE X 1325

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT 1326

COMMISSION 1327

A. The Compact States hereby create and establish a joint 1328
public agency known as the Psychology Interjurisdictional 1329
Compact Commission. 1330

1. The Commission is a body politic and an instrumentality 1331
of the Compact States. 1332

2. Venue is proper and judicial proceedings by or against 1333

the Commission shall be brought solely and exclusively in a 1334
court of competent jurisdiction where the principal office of 1335
the Commission is located. The Commission may waive venue and 1336
jurisdictional defenses to the extent it adopts or consents to 1337
participate in alternative dispute resolution proceedings. 1338

3. Nothing in this Compact shall be construed to be a 1339
waiver of sovereign immunity. 1340

B. Membership, Voting, and Meetings 1341

1. The Commission shall consist of one voting 1342
representative appointed by each Compact State who shall serve 1343
as that state's Commissioner. The State Psychology Regulatory 1344
Authority shall appoint its delegate. This delegate shall be 1345
empowered to act on behalf of the Compact State. This delegate 1346
shall be limited to: 1347

a. Executive Director, Executive Secretary or similar 1348
executive; 1349

b. Current member of the State Psychology Regulatory 1350
Authority of a Compact State; OR 1351

c. Designee empowered with the appropriate delegate 1352
authority to act on behalf of the Compact State. 1353

2. Any Commissioner may be removed or suspended from 1354
office as provided by the law of the state from which the 1355
Commissioner is appointed. Any vacancy occurring in the 1356
Commission shall be filled in accordance with the laws of the 1357
Compact State in which the vacancy exists. 1358

3. Each Commissioner shall be entitled to one (1) vote 1359
with regard to the promulgation of Rules and creation of Bylaws 1360
and shall otherwise have an opportunity to participate in the 1361

business and affairs of the Commission. A Commissioner shall 1362
vote in person or by such other means as provided in the Bylaws. 1363
The Bylaws may provide for Commissioners' participation in 1364
meetings by telephone or other means of communication. 1365

4. The Commission shall meet at least once during each 1366
calendar year. Additional meetings shall be held as set forth in 1367
the Bylaws. 1368

5. All meetings shall be open to the public, and public 1369
notice of meetings shall be given in the same manner as required 1370
under the rulemaking provisions in Article XI. 1371

6. The Commission may convene in a closed, non-public 1372
meeting if the Commission must discuss: 1373

a. Non-compliance of a Compact State with its obligations 1374
under the Compact; 1375

b. The employment, compensation, discipline or other 1376
personnel matters, practices or procedures related to specific 1377
employees or other matters related to the Commission's internal 1378
personnel practices and procedures; 1379

c. Current, threatened, or reasonably anticipated 1380
litigation against the Commission; 1381

d. Negotiation of contracts for the purchase or sale of 1382
goods, services or real estate; 1383

e. Accusation against any person of a crime or formally 1384
censuring any person; 1385

f. Disclosure of trade secrets or commercial or financial 1386
information which is privileged or confidential; 1387

g. Disclosure of information of a personal nature where 1388

disclosure would constitute a clearly unwarranted invasion of 1389
personal privacy; 1390

h. Disclosure of investigatory records compiled for law 1391
enforcement purposes; 1392

i. Disclosure of information related to any investigatory 1393
reports prepared by or on behalf of or for use of the Commission 1394
or other committee charged with responsibility for investigation 1395
or determination of compliance issues pursuant to the Compact; 1396
or 1397

j. Matters specifically exempted from disclosure by 1398
federal and state statute. 1399

7. If a meeting, or portion of a meeting, is closed 1400
pursuant to this provision, the Commission's legal counsel or 1401
designee shall certify that the meeting may be closed and shall 1402
reference each relevant exempting provision. The Commission 1403
shall keep minutes which fully and clearly describe all matters 1404
discussed in a meeting and shall provide a full and accurate 1405
summary of actions taken, of any person participating in the 1406
meeting, and the reasons therefore, including a description of 1407
the views expressed. All documents considered in connection with 1408
an action shall be identified in such minutes. All minutes and 1409
documents of a closed meeting shall remain under seal, subject 1410
to release only by a majority vote of the Commission or order of 1411
a court of competent jurisdiction. 1412

C. The Commission shall, by a majority vote of the 1413
Commissioners, prescribe Bylaws and/or Rules to govern its 1414
conduct as may be necessary or appropriate to carry out the 1415
purposes and exercise the powers of the Compact, including but 1416
not limited to: 1417

<u>1. Establishing the fiscal year of the Commission;</u>	1418
<u>2. Providing reasonable standards and procedures:</u>	1419
<u>a. for the establishment and meetings of other committees;</u>	1420
<u>and</u>	1421
<u>b. governing any general or specific delegation of any</u>	1422
<u>authority or function of the Commission;</u>	1423
<u>3. Providing reasonable procedures for calling and</u>	1424
<u>conducting meetings of the Commission, ensuring reasonable</u>	1425
<u>advance notice of all meetings and providing an opportunity for</u>	1426
<u>attendance of such meetings by interested parties, with</u>	1427
<u>enumerated exceptions designed to protect the public's interest,</u>	1428
<u>the privacy of individuals of such proceedings, and proprietary</u>	1429
<u>information, including trade secrets. The Commission may meet in</u>	1430
<u>closed session only after a majority of the Commissioners vote</u>	1431
<u>to close a meeting to the public in whole or in part. As soon as</u>	1432
<u>practicable, the Commission must make public a copy of the vote</u>	1433
<u>to close the meeting revealing the vote of each Commissioner</u>	1434
<u>with no proxy votes allowed;</u>	1435
<u>4. Establishing the titles, duties and authority and</u>	1436
<u>reasonable procedures for the election of the officers of the</u>	1437
<u>Commission;</u>	1438
<u>5. Providing reasonable standards and procedures for the</u>	1439
<u>establishment of the personnel policies and programs of the</u>	1440
<u>Commission. Notwithstanding any civil service or other similar</u>	1441
<u>law of any Compact State, the Bylaws shall exclusively govern</u>	1442
<u>the personnel policies and programs of the Commission;</u>	1443
<u>6. Promulgating a Code of Ethics to address permissible</u>	1444
<u>and prohibited activities of Commission members and employees;</u>	1445

7. Providing a mechanism for concluding the operations of 1446
the Commission and the equitable disposition of any surplus 1447
funds that may exist after the termination of the Compact after 1448
the payment and/or reserving of all of its debts and 1449
obligations; 1450

8. The Commission shall publish its Bylaws in a convenient 1451
form and file a copy thereof and a copy of any amendment 1452
thereto, with the appropriate agency or officer in each of the 1453
Compact States; 1454

9. The Commission shall maintain its financial records in 1455
accordance with the Bylaws; and 1456

10. The Commission shall meet and take such actions as are 1457
consistent with the provisions of this Compact and the Bylaws. 1458

D. The Commission shall have the following powers: 1459

1. The authority to promulgate uniform rules to facilitate 1460
and coordinate implementation and administration of this 1461
Compact. The rule shall have the force and effect of law and 1462
shall be binding in all Compact States; 1463

2. To bring and prosecute legal proceedings or actions in 1464
the name of the Commission, provided that the standing of any 1465
State Psychology Regulatory Authority or other regulatory body 1466
responsible for psychology licensure to sue or be sued under 1467
applicable law shall not be affected; 1468

3. To purchase and maintain insurance and bonds; 1469

4. To borrow, accept or contract for services of 1470
personnel, including, but not limited to, employees of a Compact 1471
State; 1472

5. To hire employees, elect or appoint officers, fix 1473

compensation, define duties, grant such individuals appropriate 1474
authority to carry out the purposes of the Compact, and to 1475
establish the Commission's personnel policies and programs 1476
relating to conflicts of interest, qualifications of personnel, 1477
and other related personnel matters; 1478

6. To accept any and all appropriate donations and grants 1479
of money, equipment, supplies, materials and services, and to 1480
receive, utilize and dispose of the same; provided that at all 1481
times the Commission shall strive to avoid any appearance of 1482
impropriety and/or conflict of interest; 1483

7. To lease, purchase, accept appropriate gifts or 1484
donations of, or otherwise to own, hold, improve or use, any 1485
property, real, personal or mixed; provided that at all times 1486
the Commission shall strive to avoid any appearance of 1487
impropriety; 1488

8. To sell, convey, mortgage, pledge, lease, exchange, 1489
abandon or otherwise dispose of any property real, personal or 1490
mixed; 1491

9. To establish a budget and make expenditures; 1492

10. To borrow money; 1493

11. To appoint committees, including advisory committees 1494
comprised of Members, State regulators, State legislators or 1495
their representatives, and consumer representatives, and such 1496
other interested persons as may be designated in this Compact 1497
and the Bylaws; 1498

12. To provide and receive information from, and to 1499
cooperate with, law enforcement agencies; 1500

13. To adopt and use an official seal; and 1501

14. To perform such other functions as may be necessary or 1502
appropriate to achieve the purposes of this Compact consistent 1503
with the state regulation of psychology licensure, temporary in- 1504
person, face-to-face practice and telepsychology practice. 1505

E. The Executive Board 1506

The elected officers shall serve as the Executive Board, 1507
which shall have the power to act on behalf of the Commission 1508
according to the terms of this Compact. 1509

1. The Executive Board shall be comprised of six members: 1510

a. Five voting members who are elected from the current 1511
membership of the Commission by the Commission; 1512

b. One ex-officio, nonvoting member from the recognized 1513
membership organization composed of State and Provincial 1514
Psychology Regulatory Authorities. 1515

2. The ex-officio member must have served as staff or 1516
member on a State Psychology Regulatory Authority and will be 1517
selected by its respective organization. 1518

3. The Commission may remove any member of the Executive 1519
Board as provided in Bylaws. 1520

4. The Executive Board shall meet at least annually. 1521

5. The Executive Board shall have the following duties and 1522
responsibilities: 1523

a. Recommend to the entire Commission changes to the Rules 1524
or Bylaws, changes to this Compact legislation, fees paid by 1525
Compact States such as annual dues, and any other applicable 1526
fees; 1527

b. Ensure Compact administration services are 1528

appropriately provided, contractual or otherwise; 1529

c. Prepare and recommend the budget; 1530

d. Maintain financial records on behalf of the Commission; 1531

e. Monitor Compact compliance of member states and provide 1532
compliance reports to the Commission; 1533

f. Establish additional committees as necessary; and 1534

g. Other duties as provided in Rules or Bylaws. 1535

F. Financing of the Commission 1536

1. The Commission shall pay, or provide for the payment of 1537
the reasonable expenses of its establishment, organization and 1538
ongoing activities. 1539

2. The Commission may accept any and all appropriate 1540
revenue sources, donations and grants of money, equipment, 1541
supplies, materials and services. 1542

3. The Commission may levy on and collect an annual 1543
assessment from each Compact State or impose fees on other 1544
parties to cover the cost of the operations and activities of 1545
the Commission and its staff which must be in a total amount 1546
sufficient to cover its annual budget as approved each year for 1547
which revenue is not provided by other sources. The aggregate 1548
annual assessment amount shall be allocated based upon a formula 1549
to be determined by the Commission which shall promulgate a rule 1550
binding upon all Compact States. 1551

4. The Commission shall not incur obligations of any kind 1552
prior to securing the funds adequate to meet the same; nor shall 1553
the Commission pledge the credit of any of the Compact States, 1554
except by and with the authority of the Compact State. 1555

5. The Commission shall keep accurate accounts of all 1556
receipts and disbursements. The receipts and disbursements of 1557
the Commission shall be subject to the audit and accounting 1558
procedures established under its Bylaws. However, all receipts 1559
and disbursements of funds handled by the Commission shall be 1560
audited yearly by a certified or licensed public accountant and 1561
the report of the audit shall be included in and become part of 1562
the annual report of the Commission. 1563

G. Qualified Immunity, Defense, and Indemnification 1564

1. The members, officers, Executive Director, employees 1565
and representatives of the Commission shall be immune from suit 1566
and liability, either personally or in their official capacity, 1567
for any claim for damage to or loss of property or personal 1568
injury or other civil liability caused by or arising out of any 1569
actual or alleged act, error or omission that occurred, or that 1570
the person against whom the claim is made had a reasonable basis 1571
for believing occurred within the scope of Commission 1572
employment, duties or responsibilities; provided that nothing in 1573
this paragraph shall be construed to protect any such person 1574
from suit and/or liability for any damage, loss, injury or 1575
liability caused by the intentional or willful or wanton 1576
misconduct of that person. 1577

2. The Commission shall defend any member, officer, 1578
Executive Director, employee or representative of the Commission 1579
in any civil action seeking to impose liability arising out of 1580
any actual or alleged act, error or omission that occurred 1581
within the scope of Commission employment, duties or 1582
responsibilities, or that the person against whom the claim is 1583
made had a reasonable basis for believing occurred within the 1584
scope of Commission employment, duties or responsibilities; 1585

provided that nothing herein shall be construed to prohibit that 1586
person from retaining his or her own counsel; and provided 1587
further, that the actual or alleged act, error or omission did 1588
not result from that person's intentional or willful or wanton 1589
misconduct. 1590

3. The Commission shall indemnify and hold harmless any 1591
member, officer, Executive Director, employee or representative 1592
of the Commission for the amount of any settlement or judgment 1593
obtained against that person arising out of any actual or 1594
alleged act, error or omission that occurred within the scope of 1595
Commission employment, duties or responsibilities, or that such 1596
person had a reasonable basis for believing occurred within the 1597
scope of Commission employment, duties or responsibilities, 1598
provided that the actual or alleged act, error or omission did 1599
not result from the intentional or willful or wanton misconduct 1600
of that person. 1601

ARTICLE XI 1602

RULEMAKING 1603

A. The Commission shall exercise its rulemaking powers 1604
pursuant to the criteria set forth in this Article and the Rules 1605
adopted thereunder. Rules and amendments shall become binding as 1606
of the date specified in each rule or amendment. 1607

B. If a majority of the legislatures of the Compact States 1608
rejects a rule, by enactment of a statute or resolution in the 1609
same manner used to adopt the Compact, then such rule shall have 1610
no further force and effect in any Compact State. 1611

C. Rules or amendments to the rules shall be adopted at a 1612
regular or special meeting of the Commission. 1613

D. Prior to promulgation and adoption of a final rule or 1614

Rules by the Commission, and at least sixty (60) days in advance 1615
of the meeting at which the rule will be considered and voted 1616
upon, the Commission shall file a Notice of Proposed Rulemaking: 1617

1. On the website of the Commission; and 1618

2. On the website of each Compact States' Psychology 1619
Regulatory Authority or the publication in which each state 1620
would otherwise publish proposed rules. 1621

E. The Notice of Proposed Rulemaking shall include: 1622

1. The proposed time, date, and location of the meeting in 1623
which the rule will be considered and voted upon; 1624

2. The text of the proposed rule or amendment and the 1625
reason for the proposed rule; 1626

3. A request for comments on the proposed rule from any 1627
interested person; and 1628

4. The manner in which interested persons may submit 1629
notice to the Commission of their intention to attend the public 1630
hearing and any written comments. 1631

F. Prior to adoption of a proposed rule, the Commission 1632
shall allow persons to submit written data, facts, opinions and 1633
arguments, which shall be made available to the public. 1634

G. The Commission shall grant an opportunity for a public 1635
hearing before it adopts a rule or amendment if a hearing is 1636
requested by: 1637

1. At least twenty-five (25) persons who submit comments 1638
independently of each other; 1639

2. A governmental subdivision or agency; or 1640

3. A duly appointed person in an association that has 1641

having at least twenty-five (25) members. 1642

H. If a hearing is held on the proposed rule or amendment, 1643
the Commission shall publish the place, time, and date of the 1644
scheduled public hearing. 1645

1. All persons wishing to be heard at the hearing shall 1646
notify the Executive Director of the Commission or other 1647
designated member in writing of their desire to appear and 1648
testify at the hearing not less than five (5) business days 1649
before the scheduled date of the hearing. 1650

2. Hearings shall be conducted in a manner providing each 1651
person who wishes to comment a fair and reasonable opportunity 1652
to comment orally or in writing. 1653

3. No transcript of the hearing is required, unless a 1654
written request for a transcript is made, in which case the 1655
person requesting the transcript shall bear the cost of 1656
producing the transcript. A recording may be made in lieu of a 1657
transcript under the same terms and conditions as a transcript. 1658
This subsection shall not preclude the Commission from making a 1659
transcript or recording of the hearing if it so chooses. 1660

4. Nothing in this section shall be construed as requiring 1661
a separate hearing on each rule. Rules may be grouped for the 1662
convenience of the Commission at hearings required by this 1663
section. 1664

I. Following the scheduled hearing date, or by the close 1665
of business on the scheduled hearing date if the hearing was not 1666
held, the Commission shall consider all written and oral 1667
comments received. 1668

J. The Commission shall, by majority vote of all members, 1669
take final action on the proposed rule and shall determine the 1670

effective date of the rule, if any, based on the rulemaking 1671
record and the full text of the rule. 1672

K. If no written notice of intent to attend the public 1673
hearing by interested parties is received, the Commission may 1674
proceed with promulgation of the proposed rule without a public 1675
hearing. 1676

L. Upon determination that an emergency exists, the 1677
Commission may consider and adopt an emergency rule without 1678
prior notice, opportunity for comment, or hearing, provided that 1679
the usual rulemaking procedures provided in the Compact and in 1680
this section shall be retroactively applied to the rule as soon 1681
as reasonably possible, in no event later than ninety (90) days 1682
after the effective date of the rule. For the purposes of this 1683
provision, an emergency rule is one that must be adopted 1684
immediately in order to: 1685

1. Meet an imminent threat to public health, safety, or 1686
welfare; 1687

2. Prevent a loss of Commission or Compact State funds; 1688

3. Meet a deadline for the promulgation of an 1689
administrative rule that is established by federal law or rule; 1690
or 1691

4. Protect public health and safety. 1692

M. The Commission or an authorized committee of the 1693
Commission may direct revisions to a previously adopted rule or 1694
amendment for purposes of correcting typographical errors, 1695
errors in format, errors in consistency, or grammatical errors. 1696
Public notice of any revisions shall be posted on the website of 1697
the Commission. The revision shall be subject to challenge by 1698
any person for a period of thirty (30) days after posting. The 1699

revision may be challenged only on grounds that the revision 1700
results in a material change to a rule. A challenge shall be 1701
made in writing, and delivered to the Chair of the Commission 1702
prior to the end of the notice period. If no challenge is made, 1703
the revision will take effect without further action. If the 1704
revision is challenged, the revision may not take effect without 1705
the approval of the Commission. 1706

ARTICLE XII 1707

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT 1708

A. Oversight 1709

1. The Executive, Legislative and Judicial branches of 1710
state government in each Compact State shall enforce this 1711
Compact and take all actions necessary and appropriate to 1712
effectuate the Compact's purposes and intent. The provisions of 1713
this Compact and the rules promulgated hereunder shall have 1714
standing as statutory law. 1715

2. All courts shall take judicial notice of the Compact 1716
and the rules in any judicial or administrative proceeding in a 1717
Compact State pertaining to the subject matter of this Compact 1718
which may affect the powers, responsibilities or actions of the 1719
Commission. 1720

3. The Commission shall be entitled to receive service of 1721
process in any such proceeding, and shall have standing to 1722
intervene in such a proceeding for all purposes. Failure to 1723
provide service of process to the Commission shall render a 1724
judgment or order void as to the Commission, this Compact or 1725
promulgated rules. 1726

B. Default, Technical Assistance, and Termination 1727

1. If the Commission determines that a Compact State has 1728
defaulted in the performance of its obligations or 1729
responsibilities under this Compact or the promulgated rules, 1730
the Commission shall: 1731

a. Provide written notice to the defaulting state and 1732
other Compact States of the nature of the default, the proposed 1733
means of remedying the default and/or any other action to be 1734
taken by the Commission; and 1735

b. Provide remedial training and specific technical 1736
assistance regarding the default. 1737

2. If a state in default fails to remedy the default, the 1738
defaulting state may be terminated from the Compact upon an 1739
affirmative vote of a majority of the Compact States, and all 1740
rights, privileges and benefits conferred by this Compact shall 1741
be terminated on the effective date of termination. A remedy of 1742
the default does not relieve the offending state of obligations 1743
or liabilities incurred during the period of default. 1744

3. Termination of membership in the Compact shall be 1745
imposed only after all other means of securing compliance have 1746
been exhausted. Notice of intent to suspend or terminate shall 1747
be submitted by the Commission to the Governor, the majority and 1748
minority leaders of the defaulting state's legislature, and each 1749
of the Compact States. 1750

4. A Compact State which has been terminated is 1751
responsible for all assessments, obligations and liabilities 1752
incurred through the effective date of termination, including 1753
obligations which extend beyond the effective date of 1754
termination. 1755

5. The Commission shall not bear any costs incurred by the 1756

state which is found to be in default or which has been 1757
terminated from the Compact, unless agreed upon in writing 1758
between the Commission and the defaulting state. 1759

6. The defaulting state may appeal the action of the 1760
Commission by petitioning the U.S. District Court for the state 1761
of Georgia or the federal district where the Compact has its 1762
principal offices. The prevailing member shall be awarded all 1763
costs of such litigation, including reasonable attorney's fees. 1764

C. Dispute Resolution 1765

1. Upon request by a Compact State, the Commission shall 1766
attempt to resolve disputes related to the Compact which arise 1767
among Compact States and between Compact and Non-Compact States. 1768

2. The Commission shall promulgate a rule providing for 1769
both mediation and binding dispute resolution for disputes that 1770
arise before the commission. 1771

D. Enforcement 1772

1. The Commission, in the reasonable exercise of its 1773
discretion, shall enforce the provisions and Rules of this 1774
Compact. 1775

2. By majority vote, the Commission may initiate legal 1776
action in the United States District Court for the State of 1777
Georgia or the federal district where the Compact has its 1778
principal offices against a Compact State in default to enforce 1779
compliance with the provisions of the Compact and its 1780
promulgated Rules and Bylaws. The relief sought may include both 1781
injunctive relief and damages. In the event judicial enforcement 1782
is necessary, the prevailing member shall be awarded all costs 1783
of such litigation, including reasonable attorney's fees. 1784

3. The remedies herein shall not be the exclusive remedies 1785
of the Commission. The Commission may pursue any other remedies 1786
available under federal or state law. 1787

ARTICLE XIII 1788

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL 1789
COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND 1790
AMENDMENTS 1791

A. The Compact shall come into effect on the date on which 1792
the Compact is enacted into law in the seventh Compact State. 1793
The provisions which become effective at that time shall be 1794
limited to the powers granted to the Commission relating to 1795
assembly and the promulgation of rules. Thereafter, the 1796
Commission shall meet and exercise rulemaking powers necessary 1797
to the implementation and administration of the Compact. 1798

B. Any state which joins the Compact subsequent to the 1799
Commission's initial adoption of the rules shall be subject to 1800
the rules as they exist on the date on which the Compact becomes 1801
law in that state. Any rule which has been previously adopted by 1802
the Commission shall have the full force and effect of law on 1803
the day the Compact becomes law in that state. 1804

C. Any Compact State may withdraw from this Compact by 1805
enacting a statute repealing the same. 1806

1. A Compact State's withdrawal shall not take effect 1807
until six (6) months after enactment of the repealing statute. 1808

2. Withdrawal shall not affect the continuing requirement 1809
of the withdrawing State's Psychology Regulatory Authority to 1810
comply with the investigative and adverse action reporting 1811
requirements of this act prior to the effective date of 1812
withdrawal. 1813

D. Nothing contained in this Compact shall be construed to 1814
invalidate or prevent any psychology licensure agreement or 1815
other cooperative arrangement between a Compact State and a Non- 1816
Compact State which does not conflict with the provisions of 1817
this Compact. 1818

E. This Compact may be amended by the Compact States. No 1819
amendment to this Compact shall become effective and binding 1820
upon any Compact State until it is enacted into the law of all 1821
Compact States. 1822

ARTICLE XIV 1823

CONSTRUCTION AND SEVERABILITY 1824

This Compact shall be liberally construed so as to 1825
effectuate the purposes thereof. If this Compact shall be held 1826
contrary to the constitution of any state member thereto, the 1827
Compact shall remain in full force and effect as to the 1828
remaining Compact States. 1829

Sec. 4732.41. Not later than thirty days after the 1830
"Psychology Interjurisdictional Compact (PSYPACT)" is entered 1831
into under section 4732.40 of the Revised Code, the state board 1832
of psychology shall appoint a member to the psychology 1833
interjurisdictional compact commission created under the 1834
compact. The board shall fill a vacancy not later than thirty 1835
days after the vacancy occurs. 1836

Sec. 5119.94. (A) Upon receipt of a petition filed under 1837
section 5119.93 of the Revised Code, the probate court shall 1838
examine the petitioner under oath as to the contents of the 1839
petition. 1840

(B) If, after reviewing the allegations contained in the 1841
petition and examining the petitioner under oath, it appears to 1842

the probate court that there is probable cause to believe the 1843
respondent may reasonably benefit from treatment, the court 1844
shall do all of the following: 1845

(1) Schedule a hearing to be held within seven days to 1846
determine if there is clear and convincing evidence that the 1847
respondent may reasonably benefit from treatment for alcohol and 1848
other drug abuse; 1849

(2) Notify the respondent, the legal guardian, if any and 1850
if known, and the spouse, parents, or nearest relative or friend 1851
of the respondent concerning the allegations and contents of the 1852
petition and of the date and purpose of the hearing; 1853

(3) Notify the respondent that the respondent may retain 1854
counsel and, if the person is unable to obtain an attorney, that 1855
the respondent may be represented by court-appointed counsel at 1856
public expense if the person is indigent. Upon the appointment 1857
of an attorney to represent an indigent respondent, the court 1858
shall notify the respondent of the name, address, and telephone 1859
number of the attorney appointed to represent the respondent. 1860

(4) Notify the respondent that the court shall cause the 1861
respondent to be examined not later than twenty-four hours 1862
before the hearing date by a physician for the purpose of a 1863
physical examination and by a qualified health professional for 1864
the purpose of a drug and alcohol addiction assessment and 1865
diagnosis. In addition, the court shall notify the respondent 1866
that the respondent may have an independent expert evaluation of 1867
the person's physical and mental condition conducted at the 1868
respondent's own expense. 1869

(5) Cause the respondent to be examined not later than 1870
twenty-four hours before the hearing date by a qualified health 1871

professional for the purpose of a drug and alcohol addiction 1872
assessment and diagnosis; 1873

(6) Conduct the hearing. 1874

(C) The qualified health professional who examines the 1875
respondent pursuant to division (B)(5) of this section or who is 1876
obtained by the respondent at the respondent's own expense shall 1877
certify the professional's findings to the court within twenty- 1878
four hours of the examination. The findings of each qualified 1879
health professional shall include a recommendation for treatment 1880
if the qualified health professional determines that treatment 1881
is necessary. 1882

(D) (1) ~~(a)~~ If upon completion of the hearing held under 1883
this section the probate court finds by clear and convincing 1884
evidence that the respondent may reasonably benefit from 1885
treatment, the court shall order the treatment after considering 1886
the qualified health professionals' recommendations for 1887
treatment that have been submitted to the court under division 1888
(C) of this section. Evidence that the respondent has overdosed 1889
and been revived one or more times by an opioid antagonist, 1890
overdosed in a vehicle, or overdosed in the presence of a minor 1891
is sufficient to satisfy this evidentiary requirement. If the 1892
court orders the treatment under this division, the order shall 1893
specify the type of treatment to be provided, the type of 1894
required aftercare, and the duration of the required aftercare 1895
which shall be at least three months and shall not exceed six 1896
months, and the court shall order the treatment to be provided 1897
through a community addiction services provider or by an 1898
individual licensed or certified by the state medical board 1899
under Chapter 4731. of the Revised Code, the chemical dependency 1900
professionals board under Chapter 4758. of the Revised Code, the 1901

counselor, social worker, and marriage and family therapist 1902
board under Chapter 4757. of the Revised Code, or a similar 1903
board of another state authorized to provide substance abuse 1904
treatment. In addition, the court also may order that the 1905
respondent submit to periodic examinations by a qualified mental 1906
health professional to determine if the treatment remains 1907
necessary. 1908

~~(b) If the qualified health professional who examines the 1909
respondent certifies that the respondent meets the criteria 1910
specified in division (B) (6) of section 5119.93 of the Revised 1911
Code, if the court orders treatment under division (D) (1) (a) of 1912
this section, and if the court finds by clear and convincing 1913
evidence that the respondent presents an imminent danger or 1914
imminent threat of danger to self, family, or others as a result 1915
of alcohol or other drug abuse, separate from the treatment 1916
described in division (D) (1) (a) of this section, the court may 1917
order that the respondent be hospitalized for a period not to 1918
exceed seventy-two hours. The court shall direct that the order 1919
shall be executed as soon as possible, but not later than 1920
seventy-two hours, after its issuance. If the order cannot be 1921
executed within seventy-two hours after its issuance, it remains 1922
valid for sixty days after its issuance, subject to tolling as 1923
described in division (D) (1) (c) of this section, and may be 1924
executed at any time during that six month period or that six 1925
month period as extended by the tolling. Any respondent who has 1926
been admitted to a hospital under this division shall be 1927
released within seventy-two hours of admittance, unless the 1928
respondent voluntarily agrees to remain longer. A respondent who 1929
voluntarily agrees to remain longer may be hospitalized for the 1930
additional period of time agreed to by the respondent. No 1931
respondent ordered under this division to be hospitalized shall 1932~~

~~be held in jail pending transportation to the hospital unless~~ 1933
~~the court has previously found the respondent to be in contempt~~ 1934
~~of court for either failure to undergo treatment or failure to~~ 1935
~~appear at an evaluation ordered under this section.~~ 1936

~~(c) The six month period for execution of an order~~ 1937
~~specified in division (D) (1) (b) of this section shall not run~~ 1938
~~during any time when the respondent purposely avoids execution~~ 1939
~~of the order. Proof that the respondent departed this state or~~ 1940
~~concealed the respondent's identity or whereabouts is prima~~ 1941
~~facie evidence of the respondent's purpose to avoid the~~ 1942
~~execution.~~ 1943

(2) (a) Failure of a respondent to undergo and complete any 1944
treatment ordered pursuant to this division is contempt of 1945
court. Any community addiction services provider or person 1946
providing treatment under this division shall notify the probate 1947
court of a respondent's failure to undergo or complete the 1948
ordered treatment. 1949

(b) In addition to and separate from the sanction 1950
specified in division (D) (2) (a) of this section, if a respondent 1951
fails to undergo and complete any treatment ordered pursuant to 1952
this section, the court may issue a summons. The summons shall 1953
be directed to the respondent and shall command the respondent 1954
to appear at a time and place specified in the summons. If a 1955
respondent who has been summoned under this division fails to 1956
appear at the specified time and place, the court may order a 1957
peace officer, as defined in section 2935.01 of the Revised 1958
Code, to transport the respondent to a place described in 1959
division (D) (1) ~~(a)~~ of this section ~~or a hospital~~ for treatment. 1960
The peace officer, with the approval of the officer's agency, 1961
may provide for the transportation of the respondent by a 1962

private entity. The transportation costs of the peace officer or 1963
the private entity shall be included within the costs of 1964
treatment. 1965

(E) If, at any time after a petition is filed under 1966
section 5119.93 of the Revised Code, the probate court finds 1967
that there is not probable cause to continue treatment or if the 1968
petitioner withdraws the petition, then the court shall dismiss 1969
the proceedings against the respondent. 1970

Sec. 5122.02. (A) Except as provided in division (D) of 1971
this section, any person who is eighteen years of age or older 1972
and who is, appears to be, or believes self to be mentally ill 1973
may make written application for voluntary admission to the 1974
chief medical officer of a hospital. 1975

(B) Except as provided in division (D) of this section, 1976
the application also may be made on behalf of a minor by a 1977
parent, a guardian of the person, or the person with custody of 1978
the minor, and on behalf of an adult incompetent person by the 1979
guardian or the person with custody of the incompetent person. 1980

Any person whose admission is applied for under division 1981
(A) or (B) of this section may be admitted for observation, 1982
diagnosis, care, or treatment, in any hospital unless the chief 1983
clinical officer finds that hospitalization is inappropriate, 1984
and except that, in the case of a public hospital, no person 1985
shall be admitted without the authorization of the board of the 1986
person's county of residence. 1987

(C) If a minor or person adjudicated incompetent due to 1988
mental illness whose voluntary admission is applied for under 1989
division (B) of this section is admitted, the court shall 1990
determine, upon petition by private or otherwise appointed 1991

counsel, a relative, or one acting as next friend, whether the 1992
admission or continued hospitalization is in the best interest 1993
of the minor or incompetent. 1994

The chief clinical officer shall discharge any voluntary 1995
patient who has recovered or whose hospitalization the officer 1996
determines to be no longer advisable ~~and may discharge any~~ 1997
~~voluntary patient who refuses to accept treatment consistent~~ 1998
~~with the written treatment plan required by section 5122.27 of~~ 1999
~~the Revised Code. In the case of a voluntary patient who refuses~~ 2000
to accept treatment consistent with the written treatment plan 2001
required by section 5122.27 of the Revised Code, the chief 2002
clinical officer may file an affidavit under section 5122.11 of 2003
the Revised Code. If the chief clinical officer decides not to 2004
file such an affidavit and to, instead, discharge the patient, 2005
and a trial court or prosecutor had, within the past twelve 2006
months, filed an affidavit in probate court pursuant to division 2007
(B) (1) (a) (v) (I) of section 2945.38 of the Revised Code relating 2008
to the patient, the chief clinical officer, to the extent that 2009
the chief clinical officer has knowledge of the patient's prior 2010
status, shall immediately notify such trial court or prosecutor 2011
of the intent to discharge. Not later than three court days 2012
after being notified of the intent to discharge, the trial court 2013
or prosecutor may file or cause to be filed with the court of 2014
the county where the patient is hospitalized, or the court of 2015
the county where the patient resides, an affidavit under section 2016
5122.11 of the Revised Code. If such an affidavit is filed, the 2017
patient's discharge must be postponed until a hearing under 2018
section 5122.141 of the Revised Code is held. 2019

(D) A person who is found incompetent to stand trial or 2020
not guilty by reason of insanity and who is committed pursuant 2021
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 2022

Revised Code shall not voluntarily admit the person or be
voluntarily admitted to a hospital pursuant to this section
until after the final termination of the commitment, as
described in division (J) of section 2945.401 of the Revised
Code.

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

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

(B) The patient was, within the past twelve months, a
defendant described in division (B)(1)(a)(v)(I) of section
2945.38 of the Revised Code and the chief clinical officer of
the hospital decides not to file or cause to be filed an
affidavit under section 5122.11 of the Revised Code as described
in division (C) of this section. In that circumstance, the chief
clinical officer shall immediately notify the trial court or
prosecutor described in division (B)(1)(a)(v)(I) of section
2945.38 of the Revised Code of the chief clinical officer's
decision and intent to release the patient. Not later than three
court days after being notified of the intent to release, the
trial court or prosecutor may file or cause to be filed with the
court of the county where the patient is hospitalized, or the
court of the county where the patient resides, an affidavit
under section 5122.11 of the Revised Code. If such an affidavit
is filed, the patient's release must be postponed until a

hearing under section 5122.141 of the Revised Code is held. 2053

(C) The chief clinical officer of the hospital, within 2054
three court days from the receipt of the request for release, 2055
files or causes to be filed with the court of the county where 2056
the patient is hospitalized or of the county where the patient 2057
is a resident, an affidavit under section 5122.11 of the Revised 2058
Code. Release may be postponed until the hearing held under 2059
section 5122.141 of the Revised Code. A telephone communication 2060
within three court days from the receipt of the request for 2061
release from the chief clinical officer to the court, indicating 2062
that the required affidavit has been mailed, is sufficient 2063
compliance with the time limit for filing such affidavit. 2064

Unless the patient is released within three days from the 2065
receipt of the request by the chief clinical officer, the 2066
request shall serve as a request for an initial hearing under 2067
section 5122.141 of the Revised Code. If the court finds that 2068
the patient is a mentally ill person subject to court order, all 2069
provisions of this chapter with respect to involuntary 2070
hospitalization apply to such person. 2071

Judicial proceedings for hospitalization shall not be 2072
commenced with respect to a voluntary patient except pursuant to 2073
this section. 2074

Sections 5121.30 to 5121.56 of the Revised Code apply to 2075
persons received in a hospital operated by the department of 2076
mental health and addiction services on a voluntary application. 2077

The chief clinical officer of the hospital shall provide 2078
reasonable means and arrangements for informing patients of 2079
their rights to release as provided in this section and for 2080
assisting them in making and presenting requests for release or 2081

for a hearing under section 5122.141 of the Revised Code. 2082

Before a patient is released from a public hospital, the 2083
chief clinical officer shall, when possible, notify the board of 2084
the patient's county of residence of the patient's pending 2085
release after the chief clinical officer has informed the 2086
patient that the board will be so notified. 2087

Sec. 5122.11. Proceedings for a mentally ill person 2088
subject to court order pursuant to sections 5122.11 to 5122.15 2089
of the Revised Code shall be commenced by the filing of an 2090
affidavit in the manner prescribed by the department of mental 2091
health and addiction services and in a form prescribed in 2092
section 5122.111 of the Revised Code, by any person or persons 2093
with the probate court, either on reliable information or actual 2094
knowledge, whichever is determined to be proper by the court. 2095
This section does not apply to the hospitalization of a person 2096
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 2097
the Revised Code. 2098

The affidavit shall contain an allegation setting forth 2099
the specific category or categories under division (B) of 2100
section 5122.01 of the Revised Code upon which the jurisdiction 2101
of the court is based and a statement of alleged facts 2102
sufficient to indicate probable cause to believe that the person 2103
is a mentally ill person subject to court order. The affidavit 2104
may be accompanied, or the court may require that the affidavit 2105
be accompanied, by a certificate of a psychiatrist, or a 2106
certificate signed by a licensed clinical psychologist and a 2107
certificate signed by a licensed physician stating that the 2108
person who issued the certificate has examined the person and is 2109
of the opinion that the person is a mentally ill person subject 2110
to court order, or shall be accompanied by a written statement 2111

by the applicant, under oath, that the person has refused to 2112
submit to an examination by a psychiatrist, or by a licensed 2113
clinical psychologist and licensed physician. 2114

~~Upon~~ With regard to a defendant described in division (B) 2115
(1) (a) (v) (I) of section 2945.38 of the Revised Code for whom 2116
criminal charges were dismissed, the affidavit shall contain a 2117
space for the trial court or prosecutor filing the affidavit to 2118
indicate that the person named in the affidavit is such a 2119
defendant. 2120

Upon receipt of the affidavit, if a judge of the court or 2121
a referee who is an attorney at law appointed by the court has 2122
probable cause to believe that the person named in the affidavit 2123
is a mentally ill person subject to court order, the judge or 2124
referee may issue a temporary order of detention ordering any 2125
health or police officer or sheriff to take into custody and 2126
transport the person to a hospital or other place designated in 2127
section 5122.17 of the Revised Code, or may set the matter for 2128
further hearing. If a temporary order of detention is issued and 2129
the person is transported to a hospital or other designated 2130
place, the court that issued the order shall retain jurisdiction 2131
over the case as it relates to the person's outpatient 2132
treatment, notwithstanding that the hospital or other designated 2133
place to which the person is transported is outside the 2134
territorial jurisdiction of the court. 2135

The person may be observed and treated until the hearing 2136
provided for in section 5122.141 of the Revised Code. If no such 2137
hearing is held, the person may be observed and treated until 2138
the hearing provided for in section 5122.15 of the Revised Code. 2139

Sec. 5122.111. To initiate proceedings for court-ordered 2140
treatment of a person under section 5122.11 of the Revised Code, 2141

a person or persons shall file an affidavit with the probate 2142
court that is identical in form and content to the following: 2143

AFFIDAVIT OF MENTAL ILLNESS 2144

The State of Ohio 2145

_____ County, ss. 2146

_____ Court 2147

the undersigned, residing at 2148
2149

says, that he/she has information to believe or has actual 2150
knowledge that 2151
2152

(Please specify specific category(ies) below with an X.) 2153
2154

[] Represents a substantial risk of physical harm to self as 2155
manifested by evidence of threats of, or attempts at, suicide or 2156
serious self-inflicted bodily harm; 2157

[] Represents a substantial risk of physical harm to others as 2158
manifested by evidence of recent homicidal or other violent 2159
behavior or evidence of recent threats that place another in 2160
reasonable fear of violent behavior and serious physical harm or 2161
other evidence of present dangerousness; 2162

[] Represents a substantial and immediate risk of serious 2163
physical impairment or injury to self as manifested by evidence 2164
of being unable to provide for and of not providing for basic 2165
physical needs because of mental illness and that appropriate 2166
provision for such needs cannot be made immediately available in 2167
the community; 2168

[] Would benefit from treatment for 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; or

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

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

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

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

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

(c) The person, as a result of mental illness, is unlikely to

voluntarily participate in necessary treatment. 2198

(d) In view of the person's treatment history and current 2199
behavior, the person is in need of treatment in order to prevent 2200
a relapse or deterioration that would be likely to result in 2201
substantial risk of serious harm to the person or others. 2202

2203

(Name of the party filing the affidavit) further says that the 2204
facts supporting this belief are as follows: 2205

2206

2207

2208

2209

2210

2211

These facts being sufficient to indicate probable cause that the 2212
above said person is a mentally ill person subject to court 2213
order. 2214

~~Name~~ The undersigned represents a trial court or a prosecutor 2215
who, as described in division (B) (1) (a) (v) (I) of section 2945.38 2216
of the Revised Code, is alleging that the above said person is a 2217
mentally ill person subject to court order: ☐ Yes ☐ No 2218
(please specify answer with an X). If Yes, please specify the 2219
name and address of the trial court or prosecutor: 2220

2221

2222

Name of Patient's Last Physician or Licensed Clinical 2223
Psychologist 2224

2225

Address of Patient's Last Physician or Licensed Clinical 2226
Psychologist 2227

_____ 2228
_____ 2229

The name and address of respondent's legal guardian, spouse, and 2230
adult next of kin are: 2231

Name	Kinship	Address	
_____	Legal Guardian	_____	2232
		_____	2233
		_____	2234
_____	Spouse	_____	2235
		_____	2236
_____	Adult Next of Kin	_____	2237
		_____	2238
_____	Adult Next of Kin	_____	2239
		_____	2240

The following constitutes additional information that may be 2241
necessary for the purpose of determining residence: 2242

_____ 2243
_____ 2244
_____ 2245
_____ 2246
_____ 2247

Dated this _____ day of _____, 20____ 2248

_____ 2249

Signature of the party filing 2250
the affidavit 2251

Sworn to before me and signed in my presence on the day and year 2252
above dated. 2253

Signature of Probate Judge,
Deputy Clerk, or Notary
Public
WAIVER
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.
Dated this _____ day of _____, 20____

Signature of the party filing
the affidavit
Sec. 5122.112. A probate court that terminates
jurisdiction over a defendant described in division (B) (1) (a) (v)
(I) of section 2945.38 of the Revised Code, for whom a trial
court or prosecutor initiated proceedings alleging that the
defendant is a mentally ill person subject to court order
pursuant to sections 5122.11 to 5122.15 of the Revised Code,
shall immediately do both of the following:
(A) Notify the initiating court or prosecutor of the
termination;
(B) Transmit to the initiating court a copy of any records
in its possession that pertain to the defendant's mental illness
or treatment for mental illness.
Section 2. That existing sections 2945.37, 2945.371,
2945.38, 5119.94, 5122.02, 5122.03, 5122.11, and 5122.111 of the
Revised Code are hereby repealed.