

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 2

Senator Gavarone

A BILL

To amend sections 2945.37, 2945.371, 2945.38, 1
5122.02, 5122.03, 5122.11, and 5122.111 and to 2
enact sections 4732.40, 4732.41, and 5122.112 of 3
the Revised Code to make changes to the 4
requirements for competency evaluations and 5
mental health treatment in criminal cases and to 6
enter into the Psychology Interjurisdictional 7
Compact (PSYPACT). 8

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

Section 1. That sections 2945.37, 2945.371, 2945.38, 9
5122.02, 5122.03, 5122.11, and 5122.111 be amended and sections 10
4732.40, 4732.41, and 5122.112 of the Revised Code be enacted to 11
read as follows: 12

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 13
of the Revised Code: 14

(1) "Prosecutor" means a prosecuting attorney or a city 15
director of law, village solicitor, or similar chief legal 16
officer of a municipal corporation who has authority to 17
prosecute a criminal case that is before the court or the 18
criminal case in which a defendant in a criminal case has been 19

found incompetent to stand trial or not guilty by reason of 20
insanity. 21

(2) "Examiner" means either of the following: 22

(a) A psychiatrist or a licensed clinical psychologist who 23
satisfies the criteria of division (I) of section 5122.01 of the 24
Revised Code or is employed by a certified forensic center 25
designated by the department of mental health and addiction 26
services to conduct examinations or evaluations. 27

(b) For purposes of a separate intellectual disability 28
evaluation that is ordered by a court pursuant to division ~~(H)~~ 29
(I) of section 2945.371 of the Revised Code, a psychologist 30
designated by the director of developmental disabilities 31
pursuant to that section to conduct that separate intellectual 32
disability evaluation. 33

(3) "Nonsecured status" means any unsupervised, off- 34
grounds movement or trial visit from a hospital or institution, 35
or any conditional release, that is granted to a person who is 36
found incompetent to stand trial and is committed pursuant to 37
section 2945.39 of the Revised Code or to a person who is found 38
not guilty by reason of insanity and is committed pursuant to 39
section 2945.40 of the Revised Code. 40

(4) "Unsupervised, off-grounds movement" includes only 41
off-grounds privileges that are unsupervised and that have an 42
expectation of return to the hospital or institution on a daily 43
basis. 44

(5) "Trial visit" means a patient privilege of a longer 45
stated duration of unsupervised community contact with an 46
expectation of return to the hospital or institution at 47
designated times. 48

(6) "Conditional release" means a commitment status under 49
which the trial court at any time may revoke a person's 50
conditional release and order the rehospitization or 51
reinstitutionalization of the person as described in division 52
(A) of section 2945.402 of the Revised Code and pursuant to 53
which a person who is found incompetent to stand trial or a 54
person who is found not guilty by reason of insanity lives and 55
receives treatment in the community for a period of time that 56
does not exceed the maximum prison term or term of imprisonment 57
that the person could have received for the offense in question 58
had the person been convicted of the offense instead of being 59
found incompetent to stand trial on the charge of the offense or 60
being found not guilty by reason of insanity relative to the 61
offense. 62

(7) "Licensed clinical psychologist," "mentally ill person 63
subject to court order," and "psychiatrist" have the same 64
meanings as in section 5122.01 of the Revised Code. 65

(8) "Person with an intellectual disability subject to 66
institutionalization by court order" has the same meaning as in 67
section 5123.01 of the Revised Code. 68

(B) In a criminal action in a court of common pleas, a 69
county court, or a municipal court, the court, prosecutor, or 70
defense may raise the issue of the defendant's competence to 71
stand trial. If the issue is raised before the trial has 72
commenced, the court shall hold a hearing on the issue as 73
provided in this section. If the issue is raised after the trial 74
has commenced, the court shall hold a hearing on the issue only 75
for good cause shown or on the court's own motion. 76

(C) The court shall conduct the hearing required or 77
authorized under division (B) of this section within thirty days 78

after the issue is raised, unless the defendant has been 79
referred for evaluation in which case the court shall conduct 80
the hearing within ten days after the filing of the report of 81
the evaluation or, in the case of a defendant who is ordered by 82
the court pursuant to division ~~(H)~~(I) of section 2945.371 of 83
the Revised Code to undergo a separate intellectual disability 84
evaluation conducted by a psychologist designated by the 85
director of developmental disabilities, within ten days after 86
the filing of the report of the separate intellectual disability 87
evaluation under that division. A hearing may be continued for 88
good cause. 89

(D) The defendant shall be represented by counsel at the 90
hearing conducted under division (C) of this section. If the 91
defendant is unable to obtain counsel, the court shall appoint 92
counsel under Chapter 120. of the Revised Code or under the 93
authority recognized in division (C) of section 120.06, division 94
(E) of section 120.16, division (E) of section 120.26, or 95
section 2941.51 of the Revised Code before proceeding with the 96
hearing. 97

(E) The prosecutor and defense counsel may submit evidence 98
on the issue of the defendant's competence to stand trial. A 99
written report of the evaluation of the defendant may be 100
admitted into evidence at the hearing by stipulation, but, if 101
either the prosecution or defense objects to its admission, the 102
report may be admitted under sections 2317.36 to 2317.38 of the 103
Revised Code or any other applicable statute or rule. 104

(F) The court shall not find a defendant incompetent to 105
stand trial solely because the defendant is receiving or has 106
received treatment as a voluntary or involuntary mentally ill 107
patient under Chapter 5122. or a voluntary or involuntary 108

resident with an intellectual disability under Chapter 5123. of 109
the Revised Code or because the defendant is receiving or has 110
received psychotropic drugs or other medication, even if the 111
defendant might become incompetent to stand trial without the 112
drugs or medication. 113

(G) A defendant is presumed to be competent to stand 114
trial. If, after a hearing, the court finds by a preponderance 115
of the evidence that, because of the defendant's present mental 116
condition, the defendant is incapable of understanding the 117
nature and objective of the proceedings against the defendant or 118
of assisting in the defendant's defense, the court shall find 119
the defendant incompetent to stand trial and shall enter an 120
order authorized by section 2945.38 of the Revised Code. 121

(H) Municipal courts shall follow the procedures set forth 122
in sections 2945.37 to 2945.402 of the Revised Code. Except as 123
provided in section 2945.371 of the Revised Code, a municipal 124
court shall not order an evaluation of the defendant's 125
competence to stand trial or the defendant's mental condition at 126
the time of the commission of the offense to be conducted at any 127
hospital operated by the department of mental health and 128
addiction services. Those evaluations shall be performed through 129
community resources including, but not limited to, certified 130
forensic centers, court probation departments, and community 131
mental health services providers. All expenses of the 132
evaluations shall be borne by the legislative authority of the 133
municipal court, as defined in section 1901.03 of the Revised 134
Code, and shall be taxed as costs in the case. If a defendant is 135
found incompetent to stand trial or not guilty by reason of 136
insanity, a municipal court may commit the defendant as provided 137
in sections 2945.38 to 2945.402 of the Revised Code. 138

Sec. 2945.371. (A) If the issue of a defendant's 139
competence to stand trial is raised or if a defendant enters a 140
plea of not guilty by reason of insanity, the court may order 141
one or more evaluations of the defendant's present mental 142
condition or, in the case of a plea of not guilty by reason of 143
insanity, of the defendant's mental condition at the time of the 144
offense charged. An examiner shall conduct the evaluation and 145
the evaluation may be conducted through electronic means. 146

(B) If the court orders more than one evaluation under 147
division (A) of this section, the prosecutor and the defendant 148
may recommend to the court an examiner whom each prefers to 149
perform one of the evaluations. If a defendant enters a plea of 150
not guilty by reason of insanity and if the court does not 151
designate an examiner recommended by the defendant, the court 152
shall inform the defendant that the defendant may have 153
independent expert evaluation and that, if the defendant is 154
unable to obtain independent expert evaluation, it will be 155
obtained for the defendant at public expense if the defendant is 156
indigent. 157

(C) (1) If the court orders an evaluation under division 158
(A) of this section, the defendant shall be available at the 159
times and places established by the examiners who are to conduct 160
the evaluation. The court may order a defendant who has been 161
released on bail or recognizance to submit to an evaluation 162
under this section. ~~If~~ 163

(2) If a defendant who has been released on bail or 164
recognizance refuses to submit to a complete evaluation, the 165
court may amend the conditions of bail or recognizance and order 166
the sheriff to take the defendant into custody and, except as 167
provided in division (E) of this section, deliver the defendant 168

to a center, program, or facility operated or certified by the 169
department of mental health and addiction services or the 170
department of developmental disabilities where the defendant may 171
be held for evaluation for a reasonable period of time not to 172
exceed twenty days. 173

(D) (1) A defendant who has not been released on bail or 174
recognizance may be evaluated at the defendant's place of 175
detention. ~~Upon~~ 176

(2) ~~Upon~~ the request of the examiner, the court may order 177
the sheriff to transport the defendant to a program or facility 178
operated or certified by the department of mental health and 179
addiction services or the department of developmental 180
disabilities, where the defendant may be held for evaluation for 181
a reasonable period of time not to exceed twenty days, and to 182
return the defendant to the place of detention after the 183
evaluation. A municipal court may make an order under this 184
division only upon the request of a certified forensic center 185
examiner. 186

(E) Except as provided in division (D) of this section, 187
the court shall not order a defendant to be held for evaluation 188
in a center, program, or facility operated by the department of 189
mental health and addiction services or the department of 190
developmental disabilities unless the defendant is charged with 191
a felony or an offense of violence or unless the court 192
determines, based on facts before the court, that the defendant 193
is in need of immediate hospitalization. 194

(F) If a court orders the evaluation to determine a 195
defendant's mental condition at the time of the offense charged, 196
the court shall inform the examiner of the offense with which 197
the defendant is charged. 198

~~(F)~~ (G) In conducting an evaluation of a defendant's 199
mental condition at the time of the offense charged, the 200
examiner shall consider all relevant evidence and may conduct 201
the evaluation through electronic means. If the offense charged 202
involves the use of force against another person, the relevant 203
evidence to be considered includes, but is not limited to, any 204
evidence that the defendant suffered, at the time of the 205
commission of the offense, from the "battered woman syndrome." 206

~~(G)~~ (H) The examiner shall file a written report with the 207
court, under seal, within thirty days after entry of a court 208
order for evaluation, ~~and the~~. The court shall provide copies 209
of the report to the prosecutor and defense counsel and shall 210
allow for inspection of the report by the defendant, the 211
defendant's guardian, a probate court, a board of alcohol, drug 212
addiction, and mental health services, and any mental health 213
professional who performs a subsequent mental health evaluation 214
of the defendant or who is involved in the treatment of the 215
defendant, but the report shall not be open to public 216
inspection. A person who is not among those permitted to inspect 217
the report as described in this division may file a motion with 218
the court seeking disclosure for good cause. When a motion for 219
disclosure of a report is filed, the court shall notify the 220
defendant of the pending motion and allow sufficient time for 221
the defendant to object to the disclosure. If the defendant 222
objects to the disclosure, the court shall schedule a hearing to 223
determine whether the party seeking access has demonstrated that 224
access to the report is necessary for treatment of the defendant 225
or for a criminal adjudication of the defendant for which the 226
report was originally created. At that time the defendant shall 227
be allowed an opportunity to provide the court with grounds for 228
the objection. The court shall not provide access to the report 229

unless the party seeking access can demonstrate that access to 230
the report is necessary for treatment of the defendant or for a 231
criminal adjudication of the defendant for which the report was 232
originally created. 233

A defendant who is the subject of an examiner's report 234
under this section prior to the effective date of this amendment 235
may file a motion with the court to have that report placed 236
under seal. Upon such a motion, the court shall place the report 237
under seal, subject to the access and disclosure provisions 238
provided in this section for reports filed after the effective 239
date. 240

The report shall include all of the following: 241

(1) The examiner's findings; 242

(2) The facts in reasonable detail on which the findings 243
are based; 244

(3) If the evaluation was ordered to determine the 245
defendant's competence to stand trial, all of the following 246
findings or recommendations that are applicable: 247

(a) Whether the defendant is capable of understanding the 248
nature and objective of the proceedings against the defendant or 249
of assisting in the defendant's defense; 250

(b) If the examiner's opinion is that the defendant is 251
incapable of understanding the nature and objective of the 252
proceedings against the defendant or of assisting in the 253
defendant's defense, whether the defendant presently is mentally 254
ill or has an intellectual disability and, if the examiner's 255
opinion is that the defendant presently has an intellectual 256
disability, whether the defendant appears to be a person with an 257
intellectual disability subject to institutionalization by court 258

order;	259
(c) If the examiner's opinion is that the defendant is	260
incapable of understanding the nature and objective of the	261
proceedings against the defendant or of assisting in the	262
defendant's defense, the examiner's opinion as to the likelihood	263
of the defendant becoming capable of understanding the nature	264
and objective of the proceedings against the defendant and of	265
assisting in the defendant's defense within one year if the	266
defendant is provided with a course of treatment;	267
(d) If the examiner's opinion is that the defendant is	268
incapable of understanding the nature and objective of the	269
proceedings against the defendant or of assisting in the	270
defendant's defense and that the defendant presently is mentally	271
ill or has an intellectual disability, the examiner's	272
recommendation as to the least restrictive placement or	273
commitment alternative, <u>including consideration of housing needs</u>	274
<u>and the availability of mental health treatment in the</u>	275
<u>community,</u> consistent with the defendant's treatment needs for	276
restoration to competency and with the safety of the community.	277
(4) If the evaluation was ordered to determine the	278
defendant's mental condition at the time of the offense charged,	279
the examiner's findings as to whether the defendant, at the time	280
of the offense charged, did not know, as a result of a severe	281
mental disease or defect, the wrongfulness of the defendant's	282
acts charged.	283
(H) <u>(I)</u> If the examiner's report filed under division (G)	284
<u>(H)</u> of this section indicates that in the examiner's opinion the	285
defendant is incapable of understanding the nature and objective	286
of the proceedings against the defendant or of assisting in the	287
defendant's defense and that in the examiner's opinion the	288

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

~~(I)~~ (J) An examiner appointed under divisions (A) and (B) 315
of this section or under division ~~(H)~~ (I) of this section to 316
evaluate a defendant to determine the defendant's competence to 317
stand trial also may be appointed to evaluate a defendant who 318
has entered a plea of not guilty by reason of insanity, but an 319

examiner of that nature shall prepare separate reports on the 320
issue of competence to stand trial and the defense of not guilty 321
by reason of insanity. 322

~~(J)~~ (K) No statement that a defendant makes in an 323
evaluation or hearing under divisions (A) to ~~(H)~~ (I) of this 324
section relating to the defendant's competence to stand trial or 325
to the defendant's mental condition at the time of the offense 326
charged shall be used against the defendant on the issue of 327
guilt in any criminal action or proceeding, but, in a criminal 328
action or proceeding, the prosecutor or defense counsel may call 329
as a witness any person who evaluated the defendant or prepared 330
a report pursuant to a referral under this section. Neither the 331
appointment nor the testimony of an examiner appointed under 332
this section precludes the prosecutor or defense counsel from 333
calling other witnesses or presenting other evidence on 334
competency or insanity issues. 335

~~(K)~~ (L) Persons appointed as examiners under divisions (A) 336
and (B) of this section or under division ~~(H)~~ (I) of this 337
section shall be paid a reasonable amount for their services and 338
expenses, as certified by the court. The certified amount shall 339
be paid by the county in the case of county courts and courts of 340
common pleas and by the legislative authority, as defined in 341
section 1901.03 of the Revised Code, in the case of municipal 342
courts. 343

Sec. 2945.38. (A) If the issue of a defendant's competence 344
to stand trial is raised and if the court, upon conducting the 345
hearing provided for in section 2945.37 of the Revised Code, 346
finds that the defendant is competent to stand trial, the 347
defendant shall be proceeded against as provided by law. If the 348
court finds the defendant competent to stand trial and the 349

defendant is receiving psychotropic drugs or other medication, 350
the court may authorize the continued administration of the 351
drugs or medication or other appropriate treatment in order to 352
maintain the defendant's competence to stand trial, unless the 353
defendant's attending physician advises the court against 354
continuation of the drugs, other medication, or treatment. 355

(B) (1) (a) (i) If the defendant has been charged with a 356
felony offense or a misdemeanor offense of violence for which 357
the prosecutor has not recommended the procedures under division 358
(B) (1) (a) (vi) of this section and if, after taking into 359
consideration all relevant reports, information, and other 360
evidence, the court finds that the defendant is incompetent to 361
stand trial and that there is a substantial probability that the 362
defendant will become competent to stand trial within one year 363
if the defendant is provided with a course of treatment, the 364
court shall order the defendant to undergo treatment. 365

(ii) If the defendant has been charged with a felony 366
offense and if, after taking into consideration all relevant 367
reports, information, and other evidence, the court finds that 368
the defendant is incompetent to stand trial, but the court is 369
unable at that time to determine whether there is a substantial 370
probability that the defendant will become competent to stand 371
trial within one year if the defendant is provided with a course 372
of treatment, the court shall order continuing evaluation and 373
treatment of the defendant for a period not to exceed four 374
months to determine whether there is a substantial probability 375
that the defendant will become competent to stand trial within 376
one year if the defendant is provided with a course of 377
treatment. 378

(iii) If the defendant has not been charged with a felony 379

offense but has been charged with a misdemeanor offense of 380
violence and if, after taking into consideration all relevant 381
reports, information, and other evidence, the court finds that 382
the defendant is incompetent to stand trial, but the court is 383
unable at that time to determine whether there is a substantial 384
probability that the defendant will become competent to stand 385
trial within the time frame permitted under division (C)(1) of 386
this section, the court may order continuing evaluation and 387
treatment of the defendant for a period not to exceed the 388
maximum period permitted under that division. 389

(iv) If the defendant has not been charged with a felony 390
offense or a misdemeanor offense of violence, but has been 391
charged with a misdemeanor offense that is not a misdemeanor 392
offense of violence and if, after taking into consideration all 393
relevant reports, information, and other evidence, the court 394
finds that the defendant is incompetent to stand trial, but the 395
court is unable at that time to determine whether there is a 396
substantial probability that the defendant will become competent 397
to stand trial within the time frame permitted under division 398
(C)(1) of this section, the court shall dismiss the charges and 399
follow the process outlined in division (B)(1)(a)(v)(I) of this 400
section. 401

(v) If the defendant has not been charged with a felony 402
offense or a misdemeanor offense of violence, or if the 403
defendant has been charged with a misdemeanor offense of 404
violence and the prosecutor has recommended the procedures under 405
division (B)(1)(a)(vi) of this section, and if, after taking 406
into consideration all relevant reports, information, and other 407
evidence, the trial court finds that the defendant is 408
incompetent to stand trial, the trial court shall do one of the 409
following: 410

(I) Dismiss the charges pending against the defendant. A 411
dismissal under this division is not a bar to further 412
prosecution based on the same conduct. Upon dismissal of the 413
charges, the trial court shall discharge the defendant unless 414
the court or prosecutor, after consideration of the requirements 415
of section 5122.11 of the Revised Code, files an affidavit in 416
probate court alleging that the defendant is a mentally ill 417
person subject to court order or a person with an intellectual 418
disability subject to institutionalization by court order. If an 419
affidavit is filed in probate court, the trial court may detain 420
the defendant for ten days pending a hearing in the probate 421
court and shall send to the probate court copies of all written 422
reports of the defendant's mental condition that were prepared 423
pursuant to section 2945.371 of the Revised Code. The trial 424
court or prosecutor shall specify in the appropriate space on 425
the affidavit that the defendant is a person described in this 426
subdivision. 427

(II) Order the defendant to undergo outpatient competency 428
restoration treatment at a facility operated or certified by the 429
department of mental health and addiction services as being 430
qualified to treat mental illness, at a public or community 431
mental health facility, or in the care of a psychiatrist or 432
other mental health professional. If a defendant who has been 433
released on bail or recognizance refuses to comply with court- 434
ordered outpatient treatment under this division, the court may 435
dismiss the charges pending against the defendant and proceed 436
under division (B) (1) (a) (v) (I) of this section or may amend the 437
conditions of bail or recognizance and order the sheriff to take 438
the defendant into custody and deliver the defendant to a 439
center, program, or facility operated or certified by the 440
department of mental health and addiction services for 441

treatment. 442

(vi) If the defendant has not been charged with a felony 443
offense but has been charged with a misdemeanor offense of 444
violence and after taking into consideration all relevant 445
reports, information, and other evidence, the court finds that 446
the defendant is incompetent to stand trial, the prosecutor in 447
the case may recommend that the court follow the procedures 448
prescribed in division (B) (1) (a) (v) of this section. If the 449
prosecutor does not make such a recommendation, the court shall 450
follow the procedures in division (B) (1) (a) (i) of this section. 451

(b) The court order for the defendant to undergo treatment 452
or continuing evaluation and treatment under division (B) (1) (a) 453
of this section shall specify that the defendant, if determined 454
to require mental health treatment or continuing evaluation and 455
treatment, either shall be committed to the department of mental 456
health and addiction services for treatment or continuing 457
evaluation and treatment at a hospital, facility, or agency, as 458
determined to be clinically appropriate by the department of 459
mental health and addiction services or shall be committed to a 460
facility certified by the department of mental health and 461
addiction services as being qualified to treat mental illness, 462
to a public or community mental health facility, or to a 463
psychiatrist or another mental health professional for treatment 464
or continuing evaluation and treatment. Prior to placing the 465
defendant, the department of mental health and addiction 466
services shall obtain court approval for that placement 467
following a hearing. The court order for the defendant to 468
undergo treatment or continuing evaluation and treatment under 469
division (B) (1) (a) of this section shall specify that the 470
defendant, if determined to require treatment or continuing 471
evaluation and treatment for an intellectual disability, shall 472

receive treatment or continuing evaluation and treatment at an 473
institution or facility operated by the department of 474
developmental disabilities, at a facility certified by the 475
department of developmental disabilities as being qualified to 476
treat intellectual disabilities, at a public or private 477
intellectual disabilities facility, or by a psychiatrist or 478
another intellectual disabilities professional. In any case, the 479
order may restrict the defendant's freedom of movement as the 480
court considers necessary. The prosecutor in the defendant's 481
case shall send to the chief clinical officer of the hospital, 482
facility, or agency where the defendant is placed by the 483
department of mental health and addiction services, or to the 484
managing officer of the institution, the director of the program 485
or facility, or the person to which the defendant is committed, 486
copies of relevant police reports and other background 487
information that pertains to the defendant and is available to 488
the prosecutor unless the prosecutor determines that the release 489
of any of the information in the police reports or any of the 490
other background information to unauthorized persons would 491
interfere with the effective prosecution of any person or would 492
create a substantial risk of harm to any person. 493

In determining the place of commitment, the court shall 494
consider the extent to which the person is a danger to the 495
person and to others, the need for security, the availability of 496
housing and supportive services, including outpatient mental 497
health services in the community, and the type of crime involved 498
and shall order the least restrictive alternative available that 499
is consistent with public safety and treatment goals. In 500
weighing these factors, the court shall give preference to 501
protecting public safety and the availability of housing and 502
supportive services. 503

(c) If the defendant is found incompetent to stand trial, 504
if the chief clinical officer of the hospital, facility, or 505
agency where the defendant is placed, or the managing officer of 506
the institution, the director of the program or facility, or the 507
person to which the defendant is committed for treatment or 508
continuing evaluation and treatment under division (B) (1) (b) of 509
this section determines that medication is necessary to restore 510
the defendant's competency to stand trial, and if the defendant 511
lacks the capacity to give informed consent or refuses 512
medication, the chief clinical officer of the hospital, 513
facility, or agency where the defendant is placed, or the 514
managing officer of the institution, the director of the program 515
or facility, or the person to which the defendant is committed 516
for treatment or continuing evaluation and treatment may 517
petition the court for authorization for the involuntary 518
administration of medication. The court shall hold a hearing on 519
the petition within five days of the filing of the petition if 520
the petition was filed in a municipal court or a county court 521
regarding an incompetent defendant charged with a misdemeanor or 522
within ten days of the filing of the petition if the petition 523
was filed in a court of common pleas regarding an incompetent 524
defendant charged with a felony offense. Following the hearing, 525
the court may authorize the involuntary administration of 526
medication or may dismiss the petition. 527

(2) If the court finds that the defendant is incompetent 528
to stand trial and that, even if the defendant is provided with 529
a course of treatment, there is not a substantial probability 530
that the defendant will become competent to stand trial within 531
one year, the court shall order the discharge of the defendant, 532
unless upon motion of the prosecutor or on its own motion, the 533
court either seeks to retain jurisdiction over the defendant 534

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

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

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

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

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

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

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division

(C) (1) (a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree. 564
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(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C) (1) of this section; 566
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(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree; 569
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(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor. 572
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(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 575
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(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health and addiction services or is committed to an institution or facility for the treatment of intellectual disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B) (1) (a) of this section informs the court that the treatment or continuing evaluation 580
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and treatment cannot be provided at the hospital or facility 593
where the defendant is placed by the department of mental health 594
and addiction services or the institution or facility to which 595
the defendant is committed. The chief clinical officer of the 596
hospital or facility where the defendant is placed by the 597
department of mental health and addiction services or the 598
managing officer of the institution or director of the facility 599
to which the defendant is committed, or a designee of any of 600
those persons, may grant a defendant movement to a medical 601
facility for an emergency medical situation with appropriate 602
supervision to ensure the safety of the defendant, staff, and 603
community during that emergency medical situation. The chief 604
clinical officer of the hospital or facility where the defendant 605
is placed by the department of mental health and addiction 606
services or the managing officer of the institution or director 607
of the facility to which the defendant is committed shall notify 608
the court within twenty-four hours of the defendant's movement 609
to the medical facility for an emergency medical situation under 610
this division. 611

(F) The person who supervises the treatment or continuing 612
evaluation and treatment of a defendant ordered to undergo 613
treatment or continuing evaluation and treatment under division 614
(B) (1) (a) of this section shall file a written report with the 615
court at the following times: 616

(1) Whenever the person believes the defendant is capable 617
of understanding the nature and objective of the proceedings 618
against the defendant and of assisting in the defendant's 619
defense; 620

(2) For a felony offense, fourteen days before expiration 621
of the maximum time for treatment as specified in division (C) 622

of this section and fourteen days before the expiration of the 623
maximum time for continuing evaluation and treatment as 624
specified in division (B) (1) (a) of this section, and, for a 625
misdemeanor offense, ten days before the expiration of the 626
maximum time for treatment, as specified in division (C) of this 627
section; 628

(3) At a minimum, after each six months of treatment; 629

(4) Whenever the person who supervises the treatment or 630
continuing evaluation and treatment of a defendant ordered under 631
division (B) (1) (a) of this section believes that there is not a 632
substantial probability that the defendant will become capable 633
of understanding the nature and objective of the proceedings 634
against the defendant or of assisting in the defendant's defense 635
even if the defendant is provided with a course of treatment. 636

(G) A report under division (F) of this section shall 637
contain the examiner's findings, the facts in reasonable detail 638
on which the findings are based, and the examiner's opinion as 639
to the defendant's capability of understanding the nature and 640
objective of the proceedings against the defendant and of 641
assisting in the defendant's defense. If, in the examiner's 642
opinion, the defendant remains incapable of understanding the 643
nature and objective of the proceedings against the defendant 644
and of assisting in the defendant's defense and there is a 645
substantial probability that the defendant will become capable 646
of understanding the nature and objective of the proceedings 647
against the defendant and of assisting in the defendant's 648
defense if the defendant is provided with a course of treatment, 649
if in the examiner's opinion the defendant remains mentally ill 650
or continues to have an intellectual disability, and if the 651
maximum time for treatment as specified in division (C) of this 652

section has not expired, the report also shall contain the 653
examiner's recommendation as to the least restrictive placement 654
or commitment alternative that is consistent with the 655
defendant's treatment needs for restoration to competency and 656
with the safety of the community. The court shall provide copies 657
of the report to the prosecutor and defense counsel. 658

(H) If a defendant is committed pursuant to division (B) 659
(1) of this section, within ten days after the treating 660
physician of the defendant or the examiner of the defendant who 661
is employed or retained by the treating facility advises that 662
there is not a substantial probability that the defendant will 663
become capable of understanding the nature and objective of the 664
proceedings against the defendant or of assisting in the 665
defendant's defense even if the defendant is provided with a 666
course of treatment, within ten days after the expiration of the 667
maximum time for treatment as specified in division (C) of this 668
section, within ten days after the expiration of the maximum 669
time for continuing evaluation and treatment as specified in 670
division (B) (1) (a) of this section, within thirty days after a 671
defendant's request for a hearing that is made after six months 672
of treatment, or within thirty days after being advised by the 673
treating physician or examiner that the defendant is competent 674
to stand trial, whichever is the earliest, the court shall 675
conduct another hearing to determine if the defendant is 676
competent to stand trial and shall do whichever of the following 677
is applicable: 678

(1) If the court finds that the defendant is competent to 679
stand trial, the defendant shall be proceeded against as 680
provided by law. 681

(2) If the court finds that the defendant is incompetent 682

to stand trial, but that there is a substantial probability that 683
the defendant will become competent to stand trial if the 684
defendant is provided with a course of treatment, and the 685
maximum time for treatment as specified in division (C) of this 686
section has not expired, the court, after consideration of the 687
examiner's recommendation, shall order that treatment be 688
continued, may change the facility or program at which the 689
treatment is to be continued, and shall specify whether the 690
treatment is to be continued at the same or a different facility 691
or program. 692

(3) If the court finds that the defendant is incompetent 693
to stand trial, if the defendant is charged with an offense 694
listed in division (C)(1) of this section, and if the court 695
finds that there is not a substantial probability that the 696
defendant will become competent to stand trial even if the 697
defendant is provided with a course of treatment, or if the 698
maximum time for treatment relative to that offense as specified 699
in division (C) of this section has expired, further proceedings 700
shall be as provided in sections 2945.39, 2945.401, and 2945.402 701
of the Revised Code. 702

(4) If the court finds that the defendant is incompetent 703
to stand trial, if the most serious offense with which the 704
defendant is charged is a misdemeanor or a felony other than a 705
felony listed in division (C)(1) of this section, and if the 706
court finds that there is not a substantial probability that the 707
defendant will become competent to stand trial even if the 708
defendant is provided with a course of treatment, or if the 709
maximum time for treatment relative to that offense as specified 710
in division (C) of this section has expired, the court shall 711
dismiss the indictment, information, or complaint against the 712
defendant. A dismissal under this division is not a bar to 713

further prosecution based on the same conduct. The court shall 714
discharge the defendant unless the court or prosecutor files an 715
affidavit in probate court for civil commitment pursuant to 716
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 717
civil commitment is filed, the court may detain the defendant 718
for ten days pending civil commitment- and shall send to the 719
probate court copies of all written reports of the defendant's 720
mental condition prepared pursuant to section 2945.371 of the 721
Revised Code. 722

All of the following provisions apply to persons charged 723
with a misdemeanor or a felony other than a felony listed in 724
division (C)(1) of this section who are committed by the probate 725
court subsequent to the court's or prosecutor's filing of an 726
affidavit for civil commitment under authority of this division: 727

(a) The chief clinical officer of the entity, hospital, or 728
facility, the managing officer of the institution, the director 729
of the program, or the person to which the defendant is 730
committed or admitted shall do all of the following: 731

(i) Notify the prosecutor, in writing, of the discharge of 732
the defendant, send the notice at least ten days prior to the 733
discharge unless the discharge is by the probate court, and 734
state in the notice the date on which the defendant will be 735
discharged; 736

(ii) Notify the prosecutor, in writing, when the defendant 737
is absent without leave or is granted unsupervised, off-grounds 738
movement, and send this notice promptly after the discovery of 739
the absence without leave or prior to the granting of the 740
unsupervised, off-grounds movement, whichever is applicable; 741

(iii) Notify the prosecutor, in writing, of the change of 742

the defendant's commitment or admission to voluntary status, 743
send the notice promptly upon learning of the change to 744
voluntary status, and state in the notice the date on which the 745
defendant was committed or admitted on a voluntary status. 746

(b) Upon receiving notice that the defendant will be 747
granted unsupervised, off-grounds movement, the prosecutor 748
either shall re-indict the defendant or promptly notify the 749
court that the prosecutor does not intend to prosecute the 750
charges against the defendant. 751

(I) If a defendant is convicted of a crime and sentenced 752
to a jail or workhouse, the defendant's sentence shall be 753
reduced by the total number of days the defendant is confined 754
for evaluation to determine the defendant's competence to stand 755
trial or treatment under this section and sections 2945.37 and 756
2945.371 of the Revised Code or by the total number of days the 757
defendant is confined for evaluation to determine the 758
defendant's mental condition at the time of the offense charged. 759

Sec. 4732.40. The "Psychology Interjurisdictional Compact 760
(PSYPACT)" is hereby ratified, enacted into law, and entered 761
into by the state of Ohio as a party to the compact with any 762
other state that has legally joined in the compact as follows: 763

PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT) 764

ARTICLE I 765

PURPOSE 766

Whereas, states license psychologists, in order to protect 767
the public through verification of education, training and 768
experience and ensure accountability for professional practice; 769
and 770

Whereas, this Compact is intended to regulate the day to 771
day practice of telepsychology (i.e. the provision of 772
psychological services using telecommunication technologies) by 773
psychologists across state boundaries in the performance of 774
their psychological practice as assigned by an appropriate 775
authority; and 776

Whereas, this Compact is intended to regulate the 777
temporary in-person, face-to-face practice of psychology by 778
psychologists across state boundaries for 30 days within a 779
calendar year in the performance of their psychological practice 780
as assigned by an appropriate authority; 781

Whereas, this Compact is intended to authorize State 782
Psychology Regulatory Authorities to afford legal recognition, 783
in a manner consistent with the terms of the Compact, to 784
psychologists licensed in another state; 785

Whereas, this Compact recognizes that states have a vested 786
interest in protecting the public's health and safety through 787
their licensing and regulation of psychologists and that such 788
state regulation will best protect public health and safety; 789

Whereas, this Compact does not apply when a psychologist 790
is licensed in both the Home and Receiving States; and 791

Whereas, this Compact does not apply to permanent in- 792
person, face-to-face practice, it does allow for authorization 793
of temporary psychological practice. 794

Consistent with these principles, this Compact is designed 795
to achieve the following purposes and objectives: 796

1. Increase public access to professional psychological 797
services by allowing for telepsychological practice across state 798
lines as well as temporary in-person, face-to-face services into 799

<u>a state which the psychologist is not licensed to practice</u>	800
<u>psychology;</u>	801
<u>2. Enhance the states' ability to protect the public's</u>	802
<u>health and safety, especially client/patient safety;</u>	803
<u>3. Encourage the cooperation of Compact States in the</u>	804
<u>areas of psychology licensure and regulation;</u>	805
<u>4. Facilitate the exchange of information between Compact</u>	806
<u>States regarding psychologist licensure, adverse actions and</u>	807
<u>disciplinary history;</u>	808
<u>5. Promote compliance with the laws governing</u>	809
<u>psychological practice in each Compact State; and</u>	810
<u>6. Invest all Compact States with the authority to hold</u>	811
<u>licensed psychologists accountable through the mutual</u>	812
<u>recognition of Compact State licenses.</u>	813
<u>ARTICLE II</u>	814
<u>DEFINITIONS</u>	815
<u>A. "Adverse Action" means: Any action taken by a State</u>	816
<u>Psychology Regulatory Authority which finds a violation of a</u>	817
<u>statute or regulation that is identified by the State Psychology</u>	818
<u>Regulatory Authority as discipline and is a matter of public</u>	819
<u>record.</u>	820
<u>B. "Association of State and Provincial Psychology Boards</u>	821
<u>(ASPPB)" means: the recognized membership organization composed</u>	822
<u>of State and Provincial Psychology Regulatory Authorities</u>	823
<u>responsible for the licensure and registration of psychologists</u>	824
<u>throughout the United States and Canada.</u>	825
<u>C. "Authority to Practice Interjurisdictional</u>	826

Telepsychology" means: a licensed psychologist's authority to 827
practice telepsychology, within the limits authorized under this 828
Compact, in another Compact State. 829

D. "Bylaws" means: those Bylaws established by the 830
Psychology Interjurisdictional Compact Commission pursuant to 831
Article X for its governance, or for directing and controlling 832
its actions and conduct. 833

E. "Client/Patient" means: the recipient of psychological 834
services, whether psychological services are delivered in the 835
context of healthcare, corporate, supervision, and/or consulting 836
services. 837

F. "Commissioner" means: the voting representative 838
appointed by each State Psychology Regulatory Authority pursuant 839
to Article X. 840

G. "Compact State" means: a state, the District of 841
Columbia, or United States territory that has enacted this 842
Compact legislation and which has not withdrawn pursuant to 843
Article XIII, Section C or been terminated pursuant to Article 844
XII, Section B. 845

H. "Coordinated Licensure Information System" also 846
referred to as "Coordinated Database" means: an integrated 847
process for collecting, storing, and sharing information on 848
psychologists' licensure and enforcement activities related to 849
psychology licensure laws, which is administered by the 850
recognized membership organization composed of State and 851
Provincial Psychology Regulatory Authorities. 852

I. "Confidentiality" means: the principle that data or 853
information is not made available or disclosed to unauthorized 854
persons and/or processes. 855

J. "Day" means: any part of a day in which psychological 856
work is performed. 857

K. "Distant State" means: the Compact State where a 858
psychologist is physically present (not through the use of 859
telecommunications technologies), to provide temporary in- 860
person, face-to-face psychological services. 861

L. "E.Passport" means: a certificate issued by the 862
Association of State and Provincial Psychology Boards (ASPPB) 863
that promotes the standardization in the criteria of 864
interjurisdictional telepsychology practice and facilitates the 865
process for licensed psychologists to provide telepsychological 866
services across state lines. 867

M. "Executive Board" means: a group of directors elected 868
or appointed to act on behalf of, and within the powers granted 869
to them by, the Commission. 870

N. "Home State" means: a Compact State where a 871
psychologist is licensed to practice psychology. If the 872
psychologist is licensed in more than one Compact State and is 873
practicing under the Authorization to Practice 874
Interjurisdictional Telepsychology, the Home State is the 875
Compact State where the psychologist is physically present when 876
the telepsychological services are delivered. If the 877
psychologist is licensed in more than one Compact State and is 878
practicing under the Temporary Authorization to Practice, the 879
Home State is any Compact State where the psychologist is 880
licensed. 881

O. "Identity History Summary" means: a summary of 882
information retained by the FBI, or other designee with similar 883
authority, in connection with arrests and, in some instances, 884

federal employment, naturalization, or military service. 885

P. "In-Person, Face-to-Face" means: interactions in which 886
the psychologist and the client/patient are in the same physical 887
space and which does not include interactions that may occur 888
through the use of telecommunication technologies. 889

Q. "Interjurisdictional Practice Certificate (IPC)" means: 890
a certificate issued by the Association of State and Provincial 891
Psychology Boards (ASPPB) that grants temporary authority to 892
practice based on notification to the State Psychology 893
Regulatory Authority of intention to practice temporarily, and 894
verification of one's qualifications for such practice. 895

R. "License" means: authorization by a State Psychology 896
Regulatory Authority to engage in the independent practice of 897
psychology, which would be unlawful without the authorization. 898

S. "Non-Compact State" means: any State which is not at 899
the time a Compact State. 900

T. "Psychologist" means: an individual licensed for the 901
independent practice of psychology. 902

U. "Psychology Interjurisdictional Compact Commission" 903
also referred to as "Commission" means: the national 904
administration of which all Compact States are members. 905

V. "Receiving State" means: a Compact State where the 906
client/patient is physically located when the telepsychological 907
services are delivered. 908

W. "Rule" means: a written statement by the Psychology 909
Interjurisdictional Compact Commission promulgated pursuant to 910
Article XI of the Compact that is of general applicability, 911
implements, interprets, or prescribes a policy or provision of 912

the Compact, or an organizational, procedural, or practice 913
requirement of the Commission and has the force and effect of 914
statutory law in a Compact State, and includes the amendment, 915
repeal or suspension of an existing rule. 916

X. "Significant Investigatory Information" means: 917

1. investigative information that a State Psychology 918
Regulatory Authority, after a preliminary inquiry that includes 919
notification and an opportunity to respond if required by state 920
law, has reason to believe, if proven true, would indicate more 921
than a violation of state statute or ethics code that would be 922
considered more substantial than minor infraction; or 923

2. investigative information that indicates that the 924
psychologist represents an immediate threat to public health and 925
safety regardless of whether the psychologist has been notified 926
and/or had an opportunity to respond. 927

Y. "State" means: a state, commonwealth, territory, or 928
possession of the United States, the District of Columbia. 929

Z. "State Psychology Regulatory Authority" means: the 930
Board, office or other agency with the legislative mandate to 931
license and regulate the practice of psychology. 932

AA. "Telepsychology" means: the provision of psychological 933
services using telecommunication technologies. 934

BB. "Temporary Authorization to Practice" means: a 935
licensed psychologist's authority to conduct temporary in- 936
person, face-to-face practice, within the limits authorized 937
under this Compact, in another Compact State. 938

CC. "Temporary In-Person, Face-to-Face Practice" means: 939
where a psychologist is physically present (not through the use 940

of telecommunications technologies), in the Distant State to 941
provide for the practice of psychology for 30 days within a 942
calendar year and based on notification to the Distant State. 943

ARTICLE III 944

HOME STATE LICENSURE 945

A. The Home State shall be a Compact State where a 946
psychologist is licensed to practice psychology. 947

B. A psychologist may hold one or more Compact State 948
licenses at a time. If the psychologist is licensed in more than 949
one Compact State, the Home State is the Compact State where the 950
psychologist is physically present when the services are 951
delivered as authorized by the Authority to Practice 952
Interjurisdictional Telepsychology under the terms of this 953
Compact. 954

C. Any Compact State may require a psychologist not 955
previously licensed in a Compact State to obtain and retain a 956
license to be authorized to practice in the Compact State under 957
circumstances not authorized by the Authority to Practice 958
Interjurisdictional Telepsychology under the terms of this 959
Compact. 960

D. Any Compact State may require a psychologist to obtain 961
and retain a license to be authorized to practice in a Compact 962
State under circumstances not authorized by Temporary 963
Authorization to Practice under the terms of this Compact. 964

E. A Home State's license authorizes a psychologist to 965
practice in a Receiving State under the Authority to Practice 966
Interjurisdictional Telepsychology only if the Compact State: 967

1. Currently requires the psychologist to hold an active 968

<u>E. Passport;</u>	969
<u>2. Has a mechanism in place for receiving and</u>	970
<u>investigating complaints about licensed individuals;</u>	971
<u>3. Notifies the Commission, in compliance with the terms</u>	972
<u>herein, of any adverse action or significant investigatory</u>	973
<u>information regarding a licensed individual;</u>	974
<u>4. Requires an Identity History Summary of all applicants</u>	975
<u>at initial licensure, including the use of the results of</u>	976
<u>fingerprints or other biometric data checks compliant with the</u>	977
<u>requirements of the Federal Bureau of Investigation FBI, or</u>	978
<u>other designee with similar authority, no later than ten years</u>	979
<u>after activation of the Compact; and</u>	980
<u>5. Complies with the Bylaws and Rules of the Commission.</u>	981
<u>F. A Home State's license grants Temporary Authorization</u>	982
<u>to Practice to a psychologist in a Distant State only if the</u>	983
<u>Compact State:</u>	984
<u>1. Currently requires the psychologist to hold an active</u>	985
<u>IPC;</u>	986
<u>2. Has a mechanism in place for receiving and</u>	987
<u>investigating complaints about licensed individuals;</u>	988
<u>3. Notifies the Commission, in compliance with the terms</u>	989
<u>herein, of any adverse action or significant investigatory</u>	990
<u>information regarding a licensed individual;</u>	991
<u>4. Requires an Identity History Summary of all applicants</u>	992
<u>at initial licensure, including the use of the results of</u>	993
<u>fingerprints or other biometric data checks compliant with the</u>	994
<u>requirements of the Federal Bureau of Investigation FBI, or</u>	995
<u>other designee with similar authority, no later than ten years</u>	996

<u>after activation of the Compact; and</u>	997
<u>5. Complies with the Bylaws and Rules of the Commission.</u>	998
<u>ARTICLE IV</u>	999
<u>COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY</u>	1000
<u>A. Compact States shall recognize the right of a</u>	1001
<u>psychologist, licensed in a Compact State in conformance with</u>	1002
<u>Article III, to practice telepsychology in other Compact States</u>	1003
<u>(Receiving States) in which the psychologist is not licensed,</u>	1004
<u>under the Authority to Practice Interjurisdictional</u>	1005
<u>Telepsychology as provided in the Compact.</u>	1006
<u>B. To exercise the Authority to Practice</u>	1007
<u>Interjurisdictional Telepsychology under the terms and</u>	1008
<u>provisions of this Compact, a psychologist licensed to practice</u>	1009
<u>in a Compact State must:</u>	1010
<u>1. Hold a graduate degree in psychology from an institute</u>	1011
<u>of higher education that was, at the time the degree was</u>	1012
<u>awarded:</u>	1013
<u>a. Regionally accredited by an accrediting body recognized</u>	1014
<u>by the U.S. Department of Education to grant graduate degrees,</u>	1015
<u>OR authorized by Provincial Statute or Royal Charter to grant</u>	1016
<u>doctoral degrees; OR</u>	1017
<u>b. A foreign college or university deemed to be equivalent</u>	1018
<u>to 1 (a) above by a foreign credential evaluation service that</u>	1019
<u>is a member of the National Association of Credential Evaluation</u>	1020
<u>Services (NACES) or by a recognized foreign credential</u>	1021
<u>evaluation service; AND</u>	1022
<u>2. Hold a graduate degree in psychology that meets the</u>	1023
<u>following criteria:</u>	1024

- a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists; 1025
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- b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution; 1030
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- c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines; 1032
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- d. The program must consist of an integrated, organized sequence of study; 1035
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- e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities; 1037
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- f. The designated director of the program must be a psychologist and a member of the core faculty; 1040
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- g. The program must have an identifiable body of students who are matriculated in that program for a degree; 1042
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- h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology; 1044
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- i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree; 1047
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- j. The program includes an acceptable residency as defined by the Rules of the Commission. 1051
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<u>3. Possess a current, full and unrestricted license to</u>	1053
<u>practice psychology in a Home State which is a Compact State;</u>	1054
<u>4. Have no history of adverse action that violate the</u>	1055
<u>Rules of the Commission;</u>	1056
<u>5. Have no criminal record history reported on an Identity</u>	1057
<u>History Summary that violates the Rules of the Commission;</u>	1058
<u>6. Possess a current, active E.Passport;</u>	1059
<u>7. Provide attestations in regard to areas of intended</u>	1060
<u>practice, conformity with standards of practice, competence in</u>	1061
<u>telepsychology technology; criminal background; and knowledge</u>	1062
<u>and adherence to legal requirements in the home and receiving</u>	1063
<u>states, and provide a release of information to allow for</u>	1064
<u>primary source verification in a manner specified by the</u>	1065
<u>Commission; and</u>	1066
<u>8. Meet other criteria as defined by the Rules of the</u>	1067
<u>Commission.</u>	1068
<u>C. The Home State maintains authority over the license of</u>	1069
<u>any psychologist practicing into a Receiving State under the</u>	1070
<u>Authority to Practice Interjurisdictional Telepsychology.</u>	1071
<u>D. A psychologist practicing into a Receiving State under</u>	1072
<u>the Authority to Practice Interjurisdictional Telepsychology</u>	1073
<u>will be subject to the Receiving State's scope of practice. A</u>	1074
<u>Receiving State may, in accordance with that state's due process</u>	1075
<u>law, limit or revoke a psychologist's Authority to Practice</u>	1076
<u>Interjurisdictional Telepsychology in the Receiving State and</u>	1077
<u>may take any other necessary actions under the Receiving State's</u>	1078
<u>applicable law to protect the health and safety of the Receiving</u>	1079
<u>State's citizens. If a Receiving State takes action, the state</u>	1080
<u>shall promptly notify the Home State and the Commission.</u>	1081

E. If a psychologist's license in any Home State, another Compact State, or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology. 1082
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ARTICLE V 1089

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE 1090

A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact. 1091
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B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must: 1096
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1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded: 1099
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a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; OR 1102
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b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; AND 1106
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2. Hold a graduate degree in psychology that meets the 1111
following criteria: 1112
- a. The program, wherever it may be administratively 1113
housed, must be clearly identified and labeled as a psychology 1114
program. Such a program must specify in pertinent institutional 1115
catalogues and brochures its intent to educate and train 1116
professional psychologists; 1117
- b. The psychology program must stand as a recognizable, 1118
coherent, organizational entity within the institution; 1119
- c. There must be a clear authority and primary 1120
responsibility for the core and specialty areas whether or not 1121
the program cuts across administrative lines; 1122
- d. The program must consist of an integrated, organized 1123
sequence of study; 1124
- e. There must be an identifiable psychology faculty 1125
sufficient in size and breadth to carry out its 1126
responsibilities; 1127
- f. The designated director of the program must be a 1128
psychologist and a member of the core faculty; 1129
- g. The program must have an identifiable body of students 1130
who are matriculated in that program for a degree; 1131
- h. The program must include supervised practicum, 1132
internship, or field training appropriate to the practice of 1133
psychology; 1134
- i. The curriculum shall encompass a minimum of three 1135
academic years of full-time graduate study for doctoral degrees 1136
and a minimum of one academic year of full-time graduate study 1137
for master's degree; 1138

<u>j. The program includes an acceptable residency as defined</u>	1139
<u>by the Rules of the Commission.</u>	1140
<u>3. Possess a current, full and unrestricted license to</u>	1141
<u>practice psychology in a Home State which is a Compact State;</u>	1142
<u>4. No history of adverse action that violate the Rules of</u>	1143
<u>the Commission;</u>	1144
<u>5. No criminal record history that violates the Rules of</u>	1145
<u>the Commission;</u>	1146
<u>6. Possess a current, active IPC;</u>	1147
<u>7. Provide attestations in regard to areas of intended</u>	1148
<u>practice and work experience and provide a release of</u>	1149
<u>information to allow for primary source verification in a manner</u>	1150
<u>specified by the Commission; and</u>	1151
<u>8. Meet other criteria as defined by the Rules of the</u>	1152
<u>Commission.</u>	1153
<u>C. A psychologist practicing into a Distant State under</u>	1154
<u>the Temporary Authorization to Practice shall practice within</u>	1155
<u>the scope of practice authorized by the Distant State.</u>	1156
<u>D. A psychologist practicing into a Distant State under</u>	1157
<u>the Temporary Authorization to Practice will be subject to the</u>	1158
<u>Distant State's authority and law. A Distant State may, in</u>	1159
<u>accordance with that state's due process law, limit or revoke a</u>	1160
<u>psychologist's Temporary Authorization to Practice in the</u>	1161
<u>Distant State and may take any other necessary actions under the</u>	1162
<u>Distant State's applicable law to protect the health and safety</u>	1163
<u>of the Distant State's citizens. If a Distant State takes</u>	1164
<u>action, the state shall promptly notify the Home State and the</u>	1165
<u>Commission.</u>	1166

E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice. 1167
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ARTICLE VI 1173

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE 1174

A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances: 1175
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1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State; 1181
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2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission. 1184
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ARTICLE VII 1186

ADVERSE ACTIONS 1187

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. 1188
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B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional 1193
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Telepsychology within that Receiving State. A Home State may 1195
take adverse action against a psychologist based on an adverse 1196
action taken by a Distant State regarding temporary in-person, 1197
face-to-face practice. 1198

C. If a Home State takes adverse action against a 1199
psychologist's license, that psychologist's Authority to 1200
Practice Interjurisdictional Telepsychology is terminated and 1201
the E.Passport is revoked. Furthermore, that psychologist's 1202
Temporary Authorization to Practice is terminated and the IPC is 1203
revoked. 1204

1. All Home State disciplinary orders which impose adverse 1205
action shall be reported to the Commission in accordance with 1206
the Rules promulgated by the Commission. A Compact State shall 1207
report adverse actions in accordance with the Rules of the 1208
Commission. 1209

2. In the event discipline is reported on a psychologist, 1210
the psychologist will not be eligible for telepsychology or 1211
temporary in-person, face-to-face practice in accordance with 1212
the Rules of the Commission. 1213

3. Other actions may be imposed as determined by the Rules 1214
promulgated by the Commission. 1215

D. A Home State's Psychology Regulatory Authority shall 1216
investigate and take appropriate action with respect to reported 1217
inappropriate conduct engaged in by a licensee which occurred in 1218
a Receiving State as it would if such conduct had occurred by a 1219
licensee within the Home State. In such cases, the Home State's 1220
law shall control in determining any adverse action against a 1221
psychologist's license. 1222

E. A Distant State's Psychology Regulatory Authority shall 1223

investigate and take appropriate action with respect to reported 1224
inappropriate conduct engaged in by a psychologist practicing 1225
under Temporary Authorization Practice which occurred in that 1226
Distant State as it would if such conduct had occurred by a 1227
licensee within the Home State. In such cases, Distant States 1228
law shall control in determining any adverse action against a 1229
psychologist's Temporary Authorization to Practice. 1230

F. Nothing in this Compact shall override a Compact 1231
State's decision that a psychologist's participation in an 1232
alternative program may be used in lieu of adverse action and 1233
that such participation shall remain non-public if required by 1234
the Compact State's law. Compact States must require 1235
psychologists who enter any alternative programs to not provide 1236
telepsychology services under the Authority to Practice 1237
Interjurisdictional Telepsychology or provide temporary 1238
psychological services under the Temporary Authorization to 1239
Practice in any other Compact State during the term of the 1240
alternative program. 1241

G. No other judicial or administrative remedies shall be 1242
available to a psychologist in the event a Compact State imposes 1243
an adverse action pursuant to subsection C, above. 1244

ARTICLE VIII 1245

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY 1246

REGULATORY AUTHORITY 1247

A. In addition to any other powers granted under state 1248
law, a Compact State's Psychology Regulatory Authority shall 1249
have the authority under this Compact to: 1250

1. Issue subpoenas, for both hearings and investigations, 1251
which require the attendance and testimony of witnesses and the 1252

production of evidence. Subpoenas issued by a Compact State's 1253
Psychology Regulatory Authority for the attendance and testimony 1254
of witnesses, and/or the production of evidence from another 1255
Compact State shall be enforced in the latter state by any court 1256
of competent jurisdiction, according to that court's practice 1257
and procedure in considering subpoenas issued in its own 1258
proceedings. The issuing State Psychology Regulatory Authority 1259
shall pay any witness fees, travel expenses, mileage and other 1260
fees required by the service statutes of the state where the 1261
witnesses and/or evidence are located; and 1262

2. Issue cease and desist and/or injunctive relief orders 1263
to revoke a psychologist's Authority to Practice 1264
Interjurisdictional Telepsychology and/or Temporary 1265
Authorization to Practice. 1266

3. During the course of any investigation, a psychologist 1267
may not change his/her Home State licensure. A Home State 1268
Psychology Regulatory Authority is authorized to complete any 1269
pending investigations of a psychologist and to take any actions 1270
appropriate under its law. The Home State Psychology Regulatory 1271
Authority shall promptly report the conclusions of such 1272
investigations to the Commission. Once an investigation has been 1273
completed, and pending the outcome of said investigation, the 1274
psychologist may change his/her Home State licensure. The 1275
Commission shall promptly notify the new Home State of any such 1276
decisions as provided in the Rules of the Commission. All 1277
information provided to the Commission or distributed by Compact 1278
States pursuant to the psychologist shall be confidential, filed 1279
under seal and used for investigatory or disciplinary matters. 1280
The Commission may create additional rules for mandated or 1281
discretionary sharing of information by Compact States. 1282

ARTICLE IX

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COORDINATED LICENSURE INFORMATION SYSTEM

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

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

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1. Identifying information;

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2. Licensure data;

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3. Significant investigatory information;

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4. Adverse actions against a psychologist's license;

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5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;

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6. Non-confidential information related to alternative program participation information;

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

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

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C. The Coordinated Database administrator shall promptly

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notify all Compact States of any adverse action taken against, 1310
or significant investigative information on, any licensee in a 1311
Compact State. 1312

D. Compact States reporting information to the Coordinated 1313
Database may designate information that may not be shared with 1314
the public without the express permission of the Compact State 1315
reporting the information. 1316

E. Any information submitted to the Coordinated Database 1317
that is subsequently required to be expunged by the law of the 1318
Compact State reporting the information shall be removed from 1319
the Coordinated Database. 1320

ARTICLE X 1321

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT 1322
COMMISSION 1323

A. The Compact States hereby create and establish a joint 1324
public agency known as the Psychology Interjurisdictional 1325
Compact Commission. 1326

1. The Commission is a body politic and an instrumentality 1327
of the Compact States. 1328

2. Venue is proper and judicial proceedings by or against 1329
the Commission shall be brought solely and exclusively in a 1330
court of competent jurisdiction where the principal office of 1331
the Commission is located. The Commission may waive venue and 1332
jurisdictional defenses to the extent it adopts or consents to 1333
participate in alternative dispute resolution proceedings. 1334

3. Nothing in this Compact shall be construed to be a 1335
waiver of sovereign immunity. 1336

B. Membership, Voting, and Meetings 1337

1. The Commission shall consist of one voting 1338
representative appointed by each Compact State who shall serve 1339
as that state's Commissioner. The State Psychology Regulatory 1340
Authority shall appoint its delegate. This delegate shall be 1341
empowered to act on behalf of the Compact State. This delegate 1342
shall be limited to: 1343

a. Executive Director, Executive Secretary or similar 1344
executive; 1345

b. Current member of the State Psychology Regulatory 1346
Authority of a Compact State; OR 1347

c. Designee empowered with the appropriate delegate 1348
authority to act on behalf of the Compact State. 1349

2. Any Commissioner may be removed or suspended from 1350
office as provided by the law of the state from which the 1351
Commissioner is appointed. Any vacancy occurring in the 1352
Commission shall be filled in accordance with the laws of the 1353
Compact State in which the vacancy exists. 1354

3. Each Commissioner shall be entitled to one (1) vote 1355
with regard to the promulgation of Rules and creation of Bylaws 1356
and shall otherwise have an opportunity to participate in the 1357
business and affairs of the Commission. A Commissioner shall 1358
vote in person or by such other means as provided in the Bylaws. 1359
The Bylaws may provide for Commissioners' participation in 1360
meetings by telephone or other means of communication. 1361

4. The Commission shall meet at least once during each 1362
calendar year. Additional meetings shall be held as set forth in 1363
the Bylaws. 1364

5. All meetings shall be open to the public, and public 1365
notice of meetings shall be given in the same manner as required 1366

<u>under the rulemaking provisions in Article XI.</u>	1367
<u>6. The Commission may convene in a closed, non-public</u>	1368
<u>meeting if the Commission must discuss:</u>	1369
<u>a. Non-compliance of a Compact State with its obligations</u>	1370
<u>under the Compact;</u>	1371
<u>b. The employment, compensation, discipline or other</u>	1372
<u>personnel matters, practices or procedures related to specific</u>	1373
<u>employees or other matters related to the Commission's internal</u>	1374
<u>personnel practices and procedures;</u>	1375
<u>c. Current, threatened, or reasonably anticipated</u>	1376
<u>litigation against the Commission;</u>	1377
<u>d. Negotiation of contracts for the purchase or sale of</u>	1378
<u>goods, services or real estate;</u>	1379
<u>e. Accusation against any person of a crime or formally</u>	1380
<u>censuring any person;</u>	1381
<u>f. Disclosure of trade secrets or commercial or financial</u>	1382
<u>information which is privileged or confidential;</u>	1383
<u>g. Disclosure of information of a personal nature where</u>	1384
<u>disclosure would constitute a clearly unwarranted invasion of</u>	1385
<u>personal privacy;</u>	1386
<u>h. Disclosure of investigatory records compiled for law</u>	1387
<u>enforcement purposes;</u>	1388
<u>i. Disclosure of information related to any investigatory</u>	1389
<u>reports prepared by or on behalf of or for use of the Commission</u>	1390
<u>or other committee charged with responsibility for investigation</u>	1391
<u>or determination of compliance issues pursuant to the Compact;</u>	1392
<u>or</u>	1393

j. Matters specifically exempted from disclosure by 1394
federal and state statute. 1395

7. If a meeting, or portion of a meeting, is closed 1396
pursuant to this provision, the Commission's legal counsel or 1397
designee shall certify that the meeting may be closed and shall 1398
reference each relevant exempting provision. The Commission 1399
shall keep minutes which fully and clearly describe all matters 1400
discussed in a meeting and shall provide a full and accurate 1401
summary of actions taken, of any person participating in the 1402
meeting, and the reasons therefore, including a description of 1403
the views expressed. All documents considered in connection with 1404
an action shall be identified in such minutes. All minutes and 1405
documents of a closed meeting shall remain under seal, subject 1406
to release only by a majority vote of the Commission or order of 1407
a court of competent jurisdiction. 1408

C. The Commission shall, by a majority vote of the 1409
Commissioners, prescribe Bylaws and/or Rules to govern its 1410
conduct as may be necessary or appropriate to carry out the 1411
purposes and exercise the powers of the Compact, including but 1412
not limited to: 1413

1. Establishing the fiscal year of the Commission; 1414

2. Providing reasonable standards and procedures: 1415

a. for the establishment and meetings of other committees; 1416
and 1417

b. governing any general or specific delegation of any 1418
authority or function of the Commission; 1419

3. Providing reasonable procedures for calling and 1420
conducting meetings of the Commission, ensuring reasonable 1421
advance notice of all meetings and providing an opportunity for 1422

attendance of such meetings by interested parties, with 1423
enumerated exceptions designed to protect the public's interest, 1424
the privacy of individuals of such proceedings, and proprietary 1425
information, including trade secrets. The Commission may meet in 1426
closed session only after a majority of the Commissioners vote 1427
to close a meeting to the public in whole or in part. As soon as 1428
practicable, the Commission must make public a copy of the vote 1429
to close the meeting revealing the vote of each Commissioner 1430
with no proxy votes allowed; 1431

4. Establishing the titles, duties and authority and 1432
reasonable procedures for the election of the officers of the 1433
Commission; 1434

5. Providing reasonable standards and procedures for the 1435
establishment of the personnel policies and programs of the 1436
Commission. Notwithstanding any civil service or other similar 1437
law of any Compact State, the Bylaws shall exclusively govern 1438
the personnel policies and programs of the Commission; 1439

6. Promulgating a Code of Ethics to address permissible 1440
and prohibited activities of Commission members and employees; 1441

7. Providing a mechanism for concluding the operations of 1442
the Commission and the equitable disposition of any surplus 1443
funds that may exist after the termination of the Compact after 1444
the payment and/or reserving of all of its debts and 1445
obligations; 1446

8. The Commission shall publish its Bylaws in a convenient 1447
form and file a copy thereof and a copy of any amendment 1448
thereto, with the appropriate agency or officer in each of the 1449
Compact States; 1450

9. The Commission shall maintain its financial records in 1451

accordance with the Bylaws; and 1452

10. The Commission shall meet and take such actions as are 1453
consistent with the provisions of this Compact and the Bylaws. 1454

D. The Commission shall have the following powers: 1455

1. The authority to promulgate uniform rules to facilitate 1456
and coordinate implementation and administration of this 1457
Compact. The rule shall have the force and effect of law and 1458
shall be binding in all Compact States; 1459

2. To bring and prosecute legal proceedings or actions in 1460
the name of the Commission, provided that the standing of any 1461
State Psychology Regulatory Authority or other regulatory body 1462
responsible for psychology licensure to sue or be sued under 1463
applicable law shall not be affected; 1464

3. To purchase and maintain insurance and bonds; 1465

4. To borrow, accept or contract for services of 1466
personnel, including, but not limited to, employees of a Compact 1467
State; 1468

5. To hire employees, elect or appoint officers, fix 1469
compensation, define duties, grant such individuals appropriate 1470
authority to carry out the purposes of the Compact, and to 1471
establish the Commission's personnel policies and programs 1472
relating to conflicts of interest, qualifications of personnel, 1473
and other related personnel matters; 1474

6. To accept any and all appropriate donations and grants 1475
of money, equipment, supplies, materials and services, and to 1476
receive, utilize and dispose of the same; provided that at all 1477
times the Commission shall strive to avoid any appearance of 1478
impropriety and/or conflict of interest; 1479

7. To lease, purchase, accept appropriate gifts or 1480
donations of, or otherwise to own, hold, improve or use, any 1481
property, real, personal or mixed; provided that at all times 1482
the Commission shall strive to avoid any appearance of 1483
impropriety; 1484

8. To sell, convey, mortgage, pledge, lease, exchange, 1485
abandon or otherwise dispose of any property real, personal or 1486
mixed; 1487

9. To establish a budget and make expenditures; 1488

10. To borrow money; 1489

11. To appoint committees, including advisory committees 1490
comprised of Members, State regulators, State legislators or 1491
their representatives, and consumer representatives, and such 1492
other interested persons as may be designated in this Compact 1493
and the Bylaws; 1494

12. To provide and receive information from, and to 1495
cooperate with, law enforcement agencies; 1496

13. To adopt and use an official seal; and 1497

14. To perform such other functions as may be necessary or 1498
appropriate to achieve the purposes of this Compact consistent 1499
with the state regulation of psychology licensure, temporary in- 1500
person, face-to-face practice and telepsychology practice. 1501

E. The Executive Board 1502

The elected officers shall serve as the Executive Board, 1503
which shall have the power to act on behalf of the Commission 1504
according to the terms of this Compact. 1505

1. The Executive Board shall be comprised of six members: 1506

<u>a. Five voting members who are elected from the current</u>	1507
<u>membership of the Commission by the Commission;</u>	1508
<u>b. One ex-officio, nonvoting member from the recognized</u>	1509
<u>membership organization composed of State and Provincial</u>	1510
<u>Psychology Regulatory Authorities.</u>	1511
<u>2. The ex-officio member must have served as staff or</u>	1512
<u>member on a State Psychology Regulatory Authority and will be</u>	1513
<u>selected by its respective organization.</u>	1514
<u>3. The Commission may remove any member of the Executive</u>	1515
<u>Board as provided in Bylaws.</u>	1516
<u>4. The Executive Board shall meet at least annually.</u>	1517
<u>5. The Executive Board shall have the following duties and</u>	1518
<u>responsibilities:</u>	1519
<u>a. Recommend to the entire Commission changes to the Rules</u>	1520
<u>or Bylaws, changes to this Compact legislation, fees paid by</u>	1521
<u>Compact States such as annual dues, and any other applicable</u>	1522
<u>fees;</u>	1523
<u>b. Ensure Compact administration services are</u>	1524
<u>appropriately provided, contractual or otherwise;</u>	1525
<u>c. Prepare and recommend the budget;</u>	1526
<u>d. Maintain financial records on behalf of the Commission;</u>	1527
<u>e. Monitor Compact compliance of member states and provide</u>	1528
<u>compliance reports to the Commission;</u>	1529
<u>f. Establish additional committees as necessary; and</u>	1530
<u>g. Other duties as provided in Rules or Bylaws.</u>	1531
<u>F. Financing of the Commission</u>	1532

1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities. 1533
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2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services. 1536
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3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States. 1539
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4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State. 1548
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5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission. 1552
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G. Qualified Immunity, Defense, and Indemnification 1560

1. The members, officers, Executive Director, employees 1561

and representatives of the Commission shall be immune from suit 1562
and liability, either personally or in their official capacity, 1563
for any claim for damage to or loss of property or personal 1564
injury or other civil liability caused by or arising out of any 1565
actual or alleged act, error or omission that occurred, or that 1566
the person against whom the claim is made had a reasonable basis 1567
for believing occurred within the scope of Commission 1568
employment, duties or responsibilities; provided that nothing in 1569
this paragraph shall be construed to protect any such person 1570
from suit and/or liability for any damage, loss, injury or 1571
liability caused by the intentional or willful or wanton 1572
misconduct of that person. 1573

2. The Commission shall defend any member, officer, 1574
Executive Director, employee or representative of the Commission 1575
in any civil action seeking to impose liability arising out of 1576
any actual or alleged act, error or omission that occurred 1577
within the scope of Commission employment, duties or 1578
responsibilities, or that the person against whom the claim is 1579
made had a reasonable basis for believing occurred within the 1580
scope of Commission employment, duties or responsibilities; 1581
provided that nothing herein shall be construed to prohibit that 1582
person from retaining his or her own counsel; and provided 1583
further, that the actual or alleged act, error or omission did 1584
not result from that person's intentional or willful or wanton 1585
misconduct. 1586

3. The Commission shall indemnify and hold harmless any 1587
member, officer, Executive Director, employee or representative 1588
of the Commission for the amount of any settlement or judgment 1589
obtained against that person arising out of any actual or 1590
alleged act, error or omission that occurred within the scope of 1591
Commission employment, duties or responsibilities, or that such 1592

person had a reasonable basis for believing occurred within the 1593
scope of Commission employment, duties or responsibilities, 1594
provided that the actual or alleged act, error or omission did 1595
not result from the intentional or willful or wanton misconduct 1596
of that person. 1597

ARTICLE XI 1598

RULEMAKING 1599

A. The Commission shall exercise its rulemaking powers 1600
pursuant to the criteria set forth in this Article and the Rules 1601
adopted thereunder. Rules and amendments shall become binding as 1602
of the date specified in each rule or amendment. 1603

B. If a majority of the legislatures of the Compact States 1604
rejects a rule, by enactment of a statute or resolution in the 1605
same manner used to adopt the Compact, then such rule shall have 1606
no further force and effect in any Compact State. 1607

C. Rules or amendments to the rules shall be adopted at a 1608
regular or special meeting of the Commission. 1609

D. Prior to promulgation and adoption of a final rule or 1610
Rules by the Commission, and at least sixty (60) days in advance 1611
of the meeting at which the rule will be considered and voted 1612
upon, the Commission shall file a Notice of Proposed Rulemaking: 1613

1. On the website of the Commission; and 1614

2. On the website of each Compact States' Psychology 1615
Regulatory Authority or the publication in which each state 1616
would otherwise publish proposed rules. 1617

E. The Notice of Proposed Rulemaking shall include: 1618

1. The proposed time, date, and location of the meeting in 1619

which the rule will be considered and voted upon; 1620

2. The text of the proposed rule or amendment and the 1621
reason for the proposed rule; 1622

3. A request for comments on the proposed rule from any 1623
interested person; and 1624

4. The manner in which interested persons may submit 1625
notice to the Commission of their intention to attend the public 1626
hearing and any written comments. 1627

F. Prior to adoption of a proposed rule, the Commission 1628
shall allow persons to submit written data, facts, opinions and 1629
arguments, which shall be made available to the public. 1630

G. The Commission shall grant an opportunity for a public 1631
hearing before it adopts a rule or amendment if a hearing is 1632
requested by: 1633

1. At least twenty-five (25) persons who submit comments 1634
independently of each other; 1635

2. A governmental subdivision or agency; or 1636

3. A duly appointed person in an association that has 1637
having at least twenty-five (25) members. 1638

H. If a hearing is held on the proposed rule or amendment, 1639
the Commission shall publish the place, time, and date of the 1640
scheduled public hearing. 1641

1. All persons wishing to be heard at the hearing shall 1642
notify the Executive Director of the Commission or other 1643
designated member in writing of their desire to appear and 1644
testify at the hearing not less than five (5) business days 1645
before the scheduled date of the hearing. 1646

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. 1647
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3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses. 1650
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4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section. 1657
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I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received. 1661
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J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule. 1665
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K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing. 1669
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L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that 1673
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the usual rulemaking procedures provided in the Compact and in 1676
this section shall be retroactively applied to the rule as soon 1677
as reasonably possible, in no event later than ninety (90) days 1678
after the effective date of the rule. For the purposes of this 1679
provision, an emergency rule is one that must be adopted 1680
immediately in order to: 1681

1. Meet an imminent threat to public health, safety, or 1682
welfare; 1683

2. Prevent a loss of Commission or Compact State funds; 1684

3. Meet a deadline for the promulgation of an 1685
administrative rule that is established by federal law or rule; 1686
or 1687

4. Protect public health and safety. 1688

M. The Commission or an authorized committee of the 1689
Commission may direct revisions to a previously adopted rule or 1690
amendment for purposes of correcting typographical errors, 1691
errors in format, errors in consistency, or grammatical errors. 1692
Public notice of any revisions shall be posted on the website of 1693
the Commission. The revision shall be subject to challenge by 1694
any person for a period of thirty (30) days after posting. The 1695
revision may be challenged only on grounds that the revision 1696
results in a material change to a rule. A challenge shall be 1697
made in writing, and delivered to the Chair of the Commission 1698
prior to the end of the notice period. If no challenge is made, 1699
the revision will take effect without further action. If the 1700
revision is challenged, the revision may not take effect without 1701
the approval of the Commission. 1702

ARTICLE XII 1703

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT 1704

<u>A. Oversight</u>	1705
<u>1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.</u>	1706 1707 1708 1709 1710 1711
<u>2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.</u>	1712 1713 1714 1715 1716
<u>3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.</u>	1717 1718 1719 1720 1721 1722
<u>B. Default, Technical Assistance, and Termination</u>	1723
<u>1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:</u>	1724 1725 1726 1727
<u>a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and</u>	1728 1729 1730 1731
<u>b. Provide remedial training and specific technical assistance regarding the default.</u>	1732 1733

2. If a state in default fails to remedy the default, the 1734
defaulting state may be terminated from the Compact upon an 1735
affirmative vote of a majority of the Compact States, and all 1736
rights, privileges and benefits conferred by this Compact shall 1737
be terminated on the effective date of termination. A remedy of 1738
the default does not relieve the offending state of obligations 1739
or liabilities incurred during the period of default. 1740

3. Termination of membership in the Compact shall be 1741
imposed only after all other means of securing compliance have 1742
been exhausted. Notice of intent to suspend or terminate shall 1743
be submitted by the Commission to the Governor, the majority and 1744
minority leaders of the defaulting state's legislature, and each 1745
of the Compact States. 1746

4. A Compact State which has been terminated is 1747
responsible for all assessments, obligations and liabilities 1748
incurred through the effective date of termination, including 1749
obligations which extend beyond the effective date of 1750
termination. 1751

5. The Commission shall not bear any costs incurred by the 1752
state which is found to be in default or which has been 1753
terminated from the Compact, unless agreed upon in writing 1754
between the Commission and the defaulting state. 1755

6. The defaulting state may appeal the action of the 1756
Commission by petitioning the U.S. District Court for the state 1757
of Georgia or the federal district where the Compact has its 1758
principal offices. The prevailing member shall be awarded all 1759
costs of such litigation, including reasonable attorney's fees. 1760

C. Dispute Resolution 1761

1. Upon request by a Compact State, the Commission shall 1762

attempt to resolve disputes related to the Compact which arise 1763
among Compact States and between Compact and Non-Compact States. 1764

2. The Commission shall promulgate a rule providing for 1765
both mediation and binding dispute resolution for disputes that 1766
arise before the commission. 1767

D. Enforcement 1768

1. The Commission, in the reasonable exercise of its 1769
discretion, shall enforce the provisions and Rules of this 1770
Compact. 1771

2. By majority vote, the Commission may initiate legal 1772
action in the United States District Court for the State of 1773
Georgia or the federal district where the Compact has its 1774
principal offices against a Compact State in default to enforce 1775
compliance with the provisions of the Compact and its 1776
promulgated Rules and Bylaws. The relief sought may include both 1777
injunctive relief and damages. In the event judicial enforcement 1778
is necessary, the prevailing member shall be awarded all costs 1779
of such litigation, including reasonable attorney's fees. 1780

3. The remedies herein shall not be the exclusive remedies 1781
of the Commission. The Commission may pursue any other remedies 1782
available under federal or state law. 1783

ARTICLE XIII 1784

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL 1785

COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND 1786

AMENDMENTS 1787

A. The Compact shall come into effect on the date on which 1788
the Compact is enacted into law in the seventh Compact State. 1789
The provisions which become effective at that time shall be 1790

limited to the powers granted to the Commission relating to 1791
assembly and the promulgation of rules. Thereafter, the 1792
Commission shall meet and exercise rulemaking powers necessary 1793
to the implementation and administration of the Compact. 1794

B. Any state which joins the Compact subsequent to the 1795
Commission's initial adoption of the rules shall be subject to 1796
the rules as they exist on the date on which the Compact becomes 1797
law in that state. Any rule which has been previously adopted by 1798
the Commission shall have the full force and effect of law on 1799
the day the Compact becomes law in that state. 1800

C. Any Compact State may withdraw from this Compact by 1801
enacting a statute repealing the same. 1802

1. A Compact State's withdrawal shall not take effect 1803
until six (6) months after enactment of the repealing statute. 1804

2. Withdrawal shall not affect the continuing requirement 1805
of the withdrawing State's Psychology Regulatory Authority to 1806
comply with the investigative and adverse action reporting 1807
requirements of this act prior to the effective date of 1808
withdrawal. 1809

D. Nothing contained in this Compact shall be construed to 1810
invalidate or prevent any psychology licensure agreement or 1811
other cooperative arrangement between a Compact State and a Non- 1812
Compact State which does not conflict with the provisions of 1813
this Compact. 1814

E. This Compact may be amended by the Compact States. No 1815
amendment to this Compact shall become effective and binding 1816
upon any Compact State until it is enacted into the law of all 1817
Compact States. 1818

ARTICLE XIV 1819

CONSTRUCTION AND SEVERABILITY

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

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

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

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

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Any person whose admission is applied for under division
(A) or (B) of this section may be admitted for observation,
diagnosis, care, or treatment, in any hospital unless the chief
clinical officer finds that hospitalization is inappropriate,
and except that, in the case of a public hospital, no person
shall be admitted without the authorization of the board of the

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person's county of residence. 1849

(C) If a minor or person adjudicated incompetent due to 1850
mental illness whose voluntary admission is applied for under 1851
division (B) of this section is admitted, the court shall 1852
determine, upon petition by private or otherwise appointed 1853
counsel, a relative, or one acting as next friend, whether the 1854
admission or continued hospitalization is in the best interest 1855
of the minor or incompetent. 1856

The chief clinical officer shall discharge any voluntary 1857
patient who has recovered or whose hospitalization the officer 1858
determines to be no longer advisable ~~and may discharge any~~ 1859
~~voluntary patient who refuses to accept treatment consistent~~ 1860
~~with the written treatment plan required by section 5122.27 of~~ 1861
~~the Revised Code. In the case of a voluntary patient who refuses~~ 1862
to accept treatment consistent with the written treatment plan 1863
required by section 5122.27 of the Revised Code, the chief 1864
clinical officer may file an affidavit under section 5122.11 of 1865
the Revised Code. If the chief clinical officer decides not to 1866
file such an affidavit and to, instead, discharge the patient, 1867
and a trial court or prosecutor had, within the past twelve 1868
months, filed an affidavit in probate court pursuant to division 1869
(B) (1) (a) (v) (I) of section 2945.38 of the Revised Code relating 1870
to the patient, the chief clinical officer, to the extent that 1871
the chief clinical officer has knowledge of the patient's prior 1872
status, shall immediately notify such trial court or prosecutor 1873
of the intent to discharge. Not later than three court days 1874
after being notified of the intent to discharge, the trial court 1875
or prosecutor may file or cause to be filed with the court of 1876
the county where the patient is hospitalized, or the court of 1877
the county where the patient resides, an affidavit under section 1878
5122.11 of the Revised Code. If such an affidavit is filed, the 1879

patient's discharge must be postponed until a hearing under 1880
section 5122.141 of the Revised Code is held. 1881

(D) A person who is found incompetent to stand trial or 1882
not guilty by reason of insanity and who is committed pursuant 1883
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 1884
Revised Code shall not voluntarily admit the person or be 1885
voluntarily admitted to a hospital pursuant to this section 1886
until after the final termination of the commitment, as 1887
described in division (J) of section 2945.401 of the Revised 1888
Code. 1889

Sec. 5122.03. A patient admitted under section 5122.02 of 1890
the Revised Code who requests release in writing, or whose 1891
release is requested in writing by the patient's counsel, legal 1892
guardian, parent, spouse, or adult next of kin shall be released 1893
forthwith, ~~except that~~ when any of the following is the case: 1894

(A) The patient was admitted on the patient's own 1895
application and the request for release is made by a person 1896
other than the patient, release may be conditional upon the 1897
agreement of the patient; ~~or.~~ 1898

(B) The patient was, within the past twelve months, a 1899
defendant described in division (B) (1) (a) (v) (I) of section 1900
2945.38 of the Revised Code and the chief clinical officer of 1901
the hospital decides not to file or cause to be filed an 1902
affidavit under section 5122.11 of the Revised Code as described 1903
in division (C) of this section. In that circumstance, the chief 1904
clinical officer shall immediately notify the trial court or 1905
prosecutor described in division (B) (1) (a) (v) (I) of section 1906
2945.38 of the Revised Code of the chief clinical officer's 1907
decision and intent to release the patient. Not later than three 1908
court days after being notified of the intent to release, the 1909

trial court or prosecutor may file or cause to be filed with the 1910
court of the county where the patient is hospitalized, or the 1911
court of the county where the patient resides, an affidavit 1912
under section 5122.11 of the Revised Code. If such an affidavit 1913
is filed, the patient's release must be postponed until a 1914
hearing under section 5122.141 of the Revised Code is held. 1915

(C) The chief clinical officer of the hospital, within 1916
three court days from the receipt of the request for release, 1917
files or causes to be filed with the court of the county where 1918
the patient is hospitalized or of the county where the patient 1919
is a resident, an affidavit under section 5122.11 of the Revised 1920
Code. Release may be postponed until the hearing held under 1921
section 5122.141 of the Revised Code. A telephone communication 1922
within three court days from the receipt of the request for 1923
release from the chief clinical officer to the court, indicating 1924
that the required affidavit has been mailed, is sufficient 1925
compliance with the time limit for filing such affidavit. 1926

Unless the patient is released within three days from the 1927
receipt of the request by the chief clinical officer, the 1928
request shall serve as a request for an initial hearing under 1929
section 5122.141 of the Revised Code. If the court finds that 1930
the patient is a mentally ill person subject to court order, all 1931
provisions of this chapter with respect to involuntary 1932
hospitalization apply to such person. 1933

Judicial proceedings for hospitalization shall not be 1934
commenced with respect to a voluntary patient except pursuant to 1935
this section. 1936

Sections 5121.30 to 5121.56 of the Revised Code apply to 1937
persons received in a hospital operated by the department of 1938
mental health and addiction services on a voluntary application. 1939

The chief clinical officer of the hospital shall provide 1940
reasonable means and arrangements for informing patients of 1941
their rights to release as provided in this section and for 1942
assisting them in making and presenting requests for release or 1943
for a hearing under section 5122.141 of the Revised Code. 1944

Before a patient is released from a public hospital, the 1945
chief clinical officer shall, when possible, notify the board of 1946
the patient's county of residence of the patient's pending 1947
release after the chief clinical officer has informed the 1948
patient that the board will be so notified. 1949

Sec. 5122.11. Proceedings for a mentally ill person 1950
subject to court order pursuant to sections 5122.11 to 5122.15 1951
of the Revised Code shall be commenced by the filing of an 1952
affidavit in the manner prescribed by the department of mental 1953
health and addiction services and in a form prescribed in 1954
section 5122.111 of the Revised Code, by any person or persons 1955
with the probate court, either on reliable information or actual 1956
knowledge, whichever is determined to be proper by the court. 1957
This section does not apply to the hospitalization of a person 1958
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of 1959
the Revised Code. 1960

The affidavit shall contain an allegation setting forth 1961
the specific category or categories under division (B) of 1962
section 5122.01 of the Revised Code upon which the jurisdiction 1963
of the court is based and a statement of alleged facts 1964
sufficient to indicate probable cause to believe that the person 1965
is a mentally ill person subject to court order. The affidavit 1966
may be accompanied, or the court may require that the affidavit 1967
be accompanied, by a certificate of a psychiatrist, or a 1968
certificate signed by a licensed clinical psychologist and a 1969

certificate signed by a licensed physician stating that the 1970
person who issued the certificate has examined the person and is 1971
of the opinion that the person is a mentally ill person subject 1972
to court order, or shall be accompanied by a written statement 1973
by the applicant, under oath, that the person has refused to 1974
submit to an examination by a psychiatrist, or by a licensed 1975
clinical psychologist and licensed physician. 1976

~~Upon~~ With regard to a defendant described in division (B) 1977
(1) (a) (v) (I) of section 2945.38 of the Revised Code for whom 1978
criminal charges were dismissed, the affidavit shall contain a 1979
space for the trial court or prosecutor filing the affidavit to 1980
indicate that the person named in the affidavit is such a 1981
defendant. 1982

Upon receipt of the affidavit, if a judge of the court or 1983
a referee who is an attorney at law appointed by the court has 1984
probable cause to believe that the person named in the affidavit 1985
is a mentally ill person subject to court order, the judge or 1986
referee may issue a temporary order of detention ordering any 1987
health or police officer or sheriff to take into custody and 1988
transport the person to a hospital or other place designated in 1989
section 5122.17 of the Revised Code, or may set the matter for 1990
further hearing. If a temporary order of detention is issued and 1991
the person is transported to a hospital or other designated 1992
place, the court that issued the order shall retain jurisdiction 1993
over the case as it relates to the person's outpatient 1994
treatment, notwithstanding that the hospital or other designated 1995
place to which the person is transported is outside the 1996
territorial jurisdiction of the court. 1997

The person may be observed and treated until the hearing 1998
provided for in section 5122.141 of the Revised Code. If no such 1999

hearing is held, the person may be observed and treated until 2000
the hearing provided for in section 5122.15 of the Revised Code. 2001

Sec. 5122.111. To initiate proceedings for court-ordered 2002
treatment of a person under section 5122.11 of the Revised Code, 2003
a person or persons shall file an affidavit with the probate 2004
court that is identical in form and content to the following: 2005

AFFIDAVIT OF MENTAL ILLNESS 2006

The State of Ohio 2007

_____ County, ss. 2008

_____ Court 2009

_____ 2010

the undersigned, residing at 2011

_____ 2012

says, that he/she has information to believe or has actual 2013

knowledge that 2014

_____ 2015

(Please specify specific category(ies) below with an X.) 2016

[] Represents a substantial risk of physical harm to self as 2017

manifested by evidence of threats of, or attempts at, suicide or 2018

serious self-inflicted bodily harm; 2019

[] Represents a substantial risk of physical harm to others as 2020

manifested by evidence of recent homicidal or other violent 2021

behavior or evidence of recent threats that place another in 2022

reasonable fear of violent behavior and serious physical harm or 2023

other evidence of present dangerousness; 2024

[] Represents a substantial and immediate risk of serious 2025

physical impairment or injury to self as manifested by evidence 2026

of being unable to provide for and of not providing for basic 2027
physical needs because of mental illness and that appropriate 2028
provision for such needs cannot be made immediately available in 2029
the community; 2030

[] Would benefit from treatment for mental illness and is in 2031
need of such treatment as manifested by evidence of behavior 2032
that creates a grave and imminent risk to substantial rights of 2033
others or the person; or 2034

[] Would benefit from treatment as manifested by evidence of 2035
behavior that indicates all of the following: 2036

(a) The person is unlikely to survive safely in the community 2037
without supervision, based on a clinical determination. 2038

(b) The person has a history of lack of compliance with 2039
treatment for mental illness and one of the following applies: 2040

(i) At least twice within the thirty-six months prior to the 2041
filing of an affidavit seeking court-ordered treatment of the 2042
person under section 5122.111 of the Revised Code, the lack of 2043
compliance has been a significant factor in necessitating 2044
hospitalization in a hospital or receipt of services in a 2045
forensic or other mental health unit of a correctional facility, 2046
provided that the thirty-six-month period shall be extended by 2047
the length of any hospitalization or incarceration of the person 2048
that occurred within the thirty-six-month period. 2049

(ii) Within the forty-eight months prior to the filing of an 2050
affidavit seeking court-ordered treatment of the person under 2051
section 5122.111 of the Revised Code, the lack of compliance 2052
resulted in one or more acts of serious violent behavior toward 2053
self or others or threats of, or attempts at, serious physical 2054
harm to self or others, provided that the forty-eight-month 2055

period shall be extended by the length of any hospitalization or 2056
incarceration of the person that occurred within the forty- 2057
eight-month period. 2058

(c) The person, as a result of mental illness, is unlikely to 2059
voluntarily participate in necessary treatment. 2060

(d) In view of the person's treatment history and current 2061
behavior, the person is in need of treatment in order to prevent 2062
a relapse or deterioration that would be likely to result in 2063
substantial risk of serious harm to the person or others. 2064

_____ 2065

(Name of the party filing the affidavit) further says that the 2066
facts supporting this belief are as follows: 2067

_____ 2068
_____ 2069
_____ 2070
_____ 2071
_____ 2072
_____ 2073

These facts being sufficient to indicate probable cause that the 2074
above said person is a mentally ill person subject to court 2075
order. 2076

~~Name~~ The undersigned represents a trial court or a prosecutor 2077
who, as described in division (B) (1) (a) (v) (I) of section 2945.38 2078
of the Revised Code, is alleging that the above said person is a 2079
mentally ill person subject to court order: [] Yes [] No 2080
(please specify answer with an X). If Yes, please specify the 2081
name and address of the trial court or prosecutor: 2082

_____ 2083
_____ 2084

Name of Patient's Last Physician or Licensed Clinical Psychologist 2085
2086

_____ 2087

Address of Patient's Last Physician or Licensed Clinical Psychologist 2088
2089

_____ 2090

_____ 2091

The name and address of respondent's legal guardian, spouse, and adult next of kin are: 2092
2093

Name	Kinship	Address	
_____	Legal Guardian	_____	2094 2095
_____	Spouse	_____	2096 2097
_____	Adult Next of Kin	_____	2098 2099
_____	Adult Next of Kin	_____	2100 2101
		_____	2102

The following constitutes additional information that may be necessary for the purpose of determining residence: 2103
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_____ 2105

_____ 2106

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_____ 2108

_____ 2109

Dated this _____ day of _____, 20__ 2110

_____ 2111

Signature of the party filing 2112

the affidavit	2113
Sworn to before me and signed in my presence on the day and year above dated.	2114 2115
_____	2116
Signature of Probate Judge,	2117
Deputy Clerk, or Notary	2118
Public	2119
WAIVER	2120
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.	2121 2122 2123
Dated this _____ day of _____, 20__	2124
_____	2125
Signature of the party filing the affidavit	2126 2127
<u>Sec. 5122.112. A probate court that terminates</u>	2128
<u>jurisdiction over a defendant described in division (B) (1) (a) (v)</u>	2129
<u>(I) of section 2945.38 of the Revised Code, for whom a trial</u>	2130
<u>court or prosecutor initiated proceedings alleging that the</u>	2131
<u>defendant is a mentally ill person subject to court order</u>	2132
<u>pursuant to sections 5122.11 to 5122.15 of the Revised Code,</u>	2133
<u>shall immediately do both of the following:</u>	2134
<u>(A) Notify the initiating court or prosecutor of the</u>	2135
<u>termination;</u>	2136
<u>(B) Transmit to the initiating court a copy of any records</u>	2137
<u>in its possession that pertain to the defendant's mental illness</u>	2138
<u>or treatment for mental illness.</u>	2139

Section 2. That existing sections 2945.37, 2945.371,	2140
2945.38, 5122.02, 5122.03, 5122.11, and 5122.111 of the Revised	2141
Code are hereby repealed.	2142