

**As Reported by the Senate Judiciary Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 2**

**Senator Gavarone**

**Cosponsor: Senator Manning**



**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 order; 258  
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(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment; 260  
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(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or has an intellectual disability, the examiner's recommendation as to the least restrictive placement or commitment alternative, including consideration of housing needs and the availability of mental health treatment in the community, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community. 268  
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(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged. 278  
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~~(H)~~ (I) If the examiner's report filed under division ~~(G)~~ (H) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the 284  
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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 offense but has been charged with a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within the time frame permitted under division (C)(1) of this section, the court may order continuing evaluation and treatment of the defendant for a period not to exceed the maximum period permitted under that division. 379  
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(iv) If the defendant has not been charged with a felony offense or a misdemeanor offense of violence, but has been charged with a misdemeanor offense that is not a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within the time frame permitted under division (C)(1) of this section, the court shall dismiss the charges and follow the process outlined in division (B)(1)(a)(v)(I) of this section. 390  
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(v) If the defendant has not been charged with a felony offense or a misdemeanor offense of violence, or if the defendant has been charged with a misdemeanor offense of violence and the prosecutor has recommended the procedures under division (B)(1)(a)(vi) of this section, and if, after taking into consideration all relevant reports, information, and other evidence, the trial court finds that the defendant is incompetent to stand trial, the trial court shall do one of the 402  
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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 535  
affidavit in the probate court for the civil commitment of the 536  
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 537  
alleging that the defendant is a mentally ill person subject to 538  
court order or a person with an intellectual disability subject 539  
to institutionalization by court order. If an affidavit is filed 540  
in the probate court, the trial court shall send to the probate 541  
court copies of all written reports of the defendant's mental 542  
condition that were prepared pursuant to section 2945.371 of the 543  
Revised Code. 544

The trial court may issue the temporary order of detention 545  
that a probate court may issue under section 5122.11 or 5123.71 546  
of the Revised Code, to remain in effect until the probable 547  
cause or initial hearing in the probate court. Further 548  
proceedings in the probate court are civil proceedings governed 549  
by Chapter 5122. or 5123. of the Revised Code. 550

(C) No defendant shall be required to undergo treatment, 551  
including any continuing evaluation and treatment, under 552  
division (B) (1) of this section for longer than whichever of the 553  
following periods is applicable: 554

(1) One year, if the most serious offense with which the 555  
defendant is charged is one of the following offenses: 556

(a) Aggravated murder, murder, or an offense of violence 557  
for which a sentence of death or life imprisonment may be 558  
imposed; 559

(b) An offense of violence that is a felony of the first 560  
or second degree; 561

(c) A conspiracy to commit, an attempt to commit, or 562

complicity in the commission of an offense described in division 563  
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 564  
complicity is a felony of the first or second degree. 565

(2) Six months, if the most serious offense with which the 566  
defendant is charged is a felony other than a felony described 567  
in division (C) (1) of this section; 568

(3) Sixty days, if the most serious offense with which the 569  
defendant is charged is a misdemeanor of the first or second 570  
degree; 571

(4) Thirty days, if the most serious offense with which 572  
the defendant is charged is a misdemeanor of the third or fourth 573  
degree, a minor misdemeanor, or an unclassified misdemeanor. 574

(D) Any defendant who is committed pursuant to this 575  
section shall not voluntarily admit the defendant or be 576  
voluntarily admitted to a hospital or institution pursuant to 577  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 578  
Code. 579

(E) Except as otherwise provided in this division, a 580  
defendant who is charged with an offense and is committed by the 581  
court under this section to the department of mental health and 582  
addiction services or is committed to an institution or facility 583  
for the treatment of intellectual disabilities shall not be 584  
granted unsupervised on-grounds movement, supervised off-grounds 585  
movement, or nonsecured status except in accordance with the 586  
court order. The court may grant a defendant supervised off- 587  
grounds movement to obtain medical treatment or specialized 588  
habilitation treatment services if the person who supervises the 589  
treatment or the continuing evaluation and treatment of the 590  
defendant ordered under division (B) (1) (a) of this section 591

informs the court that the treatment or continuing evaluation 592  
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  
1026  
1027  
1028  
1029
- b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution; 1030  
1031
- 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  
1033  
1034
- 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

<u>ARTICLE IX</u>	1283
<u>COORDINATED LICENSURE INFORMATION SYSTEM</u>	1284
<u>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.</u>	1285 1286 1287 1288 1289 1290
<u>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:</u>	1291 1292 1293 1294
<u>1. Identifying information;</u>	1295
<u>2. Licensure data;</u>	1296
<u>3. Significant investigatory information;</u>	1297
<u>4. Adverse actions against a psychologist's license;</u>	1298
<u>5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;</u>	1299 1300 1301
<u>6. Non-confidential information related to alternative program participation information;</u>	1302 1303
<u>7. Any denial of application for licensure, and the reasons for such denial; and</u>	1304 1305
<u>8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.</u>	1306 1307 1308
<u>C. The Coordinated Database administrator shall promptly</u>	1309

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

<u>7. To lease, purchase, accept appropriate gifts or</u>	1480
<u>donations of, or otherwise to own, hold, improve or use, any</u>	1481
<u>property, real, personal or mixed; provided that at all times</u>	1482
<u>the Commission shall strive to avoid any appearance of</u>	1483
<u>impropriety;</u>	1484
<u>8. To sell, convey, mortgage, pledge, lease, exchange,</u>	1485
<u>abandon or otherwise dispose of any property real, personal or</u>	1486
<u>mixed;</u>	1487
<u>9. To establish a budget and make expenditures;</u>	1488
<u>10. To borrow money;</u>	1489
<u>11. To appoint committees, including advisory committees</u>	1490
<u>comprised of Members, State regulators, State legislators or</u>	1491
<u>their representatives, and consumer representatives, and such</u>	1492
<u>other interested persons as may be designated in this Compact</u>	1493
<u>and the Bylaws;</u>	1494
<u>12. To provide and receive information from, and to</u>	1495
<u>cooperate with, law enforcement agencies;</u>	1496
<u>13. To adopt and use an official seal; and</u>	1497
<u>14. To perform such other functions as may be necessary or</u>	1498
<u>appropriate to achieve the purposes of this Compact consistent</u>	1499
<u>with the state regulation of psychology licensure, temporary in-</u>	1500
<u>person, face-to-face practice and telepsychology practice.</u>	1501
<u>E. The Executive Board</u>	1502
<u>The elected officers shall serve as the Executive Board,</u>	1503
<u>which shall have the power to act on behalf of the Commission</u>	1504
<u>according to the terms of this Compact.</u>	1505
<u>1. The Executive Board shall be comprised of six members:</u>	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  
2104

\_\_\_\_\_ 2105

\_\_\_\_\_ 2106

\_\_\_\_\_ 2107

\_\_\_\_\_ 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

<b>Section 2.</b> 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