

**As Passed by the House**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. S. B. No. 2**

**Senator Gavarone**

**Cosponsors: Senators Manning, Antonio, Blessing, Brenner, Cirino, Craig, Dolan, Hackett, Huffman, S., Johnson, Kunze, Peterson, Roegner, Schuring, Sykes, Wilson, Yuko Representatives Leland, Galonski, Schmidt, Abrams, Brown, Carruthers, Crossman, Edwards, Ghanbari, Gross, Hillyer, Householder, LaRe, Lepore-Hagan, McClain, Miller, J., O'Brien, Richardson, Roemer, Seitz, Smith, K., Smith, M., Sobecki, Swearingen, White, Young, T.**

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**A BILL**

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

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

**Section 1.** That sections 2945.37, 2945.371, 2945.38, 13  
5119.94, 5122.02, 5122.03, 5122.11, and 5122.111 be amended and 14  
sections 4732.40, 4732.41, and 5122.112 of the Revised Code be 15

enacted to read as follows: 16

**Sec. 2945.37.** (A) As used in sections 2945.37 to 2945.402 17  
of the Revised Code: 18

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

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

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

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

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

(4) "Unsupervised, off-grounds movement" includes only 45  
off-grounds privileges that are unsupervised and that have an 46  
expectation of return to the hospital or institution on a daily 47  
basis. 48

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

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

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

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

(B) In a criminal action in a court of common pleas, a 73

county court, or a municipal court, the court, prosecutor, or 74  
defense may raise the issue of the defendant's competence to 75  
stand trial. If the issue is raised before the trial has 76  
commenced, the court shall hold a hearing on the issue as 77  
provided in this section. If the issue is raised after the trial 78  
has commenced, the court shall hold a hearing on the issue only 79  
for good cause shown or on the court's own motion. 80

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

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

(E) The prosecutor and defense counsel may submit evidence 102  
on the issue of the defendant's competence to stand trial. A 103

written report of the evaluation of the defendant may be 104  
admitted into evidence at the hearing by stipulation, but, if 105  
either the prosecution or defense objects to its admission, the 106  
report may be admitted under sections 2317.36 to 2317.38 of the 107  
Revised Code or any other applicable statute or rule. 108

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

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

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

community resources including, but not limited to, certified 134  
forensic centers, court probation departments, and community 135  
mental health services providers. All expenses of the 136  
evaluations shall be borne by the legislative authority of the 137  
municipal court, as defined in section 1901.03 of the Revised 138  
Code, and shall be taxed as costs in the case. If a defendant is 139  
found incompetent to stand trial or not guilty by reason of 140  
insanity, a municipal court may commit the defendant as provided 141  
in sections 2945.38 to 2945.402 of the Revised Code. 142

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

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

(C) (1) If the court orders an evaluation under division 162  
(A) of this section, the defendant shall be available at the 163

times and places established by the examiners who are to conduct 164  
the evaluation. The court may order a defendant who has been 165  
released on bail or recognizance to submit to an evaluation 166  
under this section. ~~If~~ 167

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

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

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

(E) Except as provided in division (D) of this section, 191  
the court shall not order a defendant to be held for evaluation 192  
in a center, program, or facility operated by the department of 193

mental health and addiction services or the department of 194  
developmental disabilities unless the defendant is charged with 195  
a felony or an offense of violence or unless the court 196  
determines, based on facts before the court, that the defendant 197  
is in need of immediate hospitalization. 198

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

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

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

disclosure of a report is filed, the court shall notify the 224  
defendant of the pending motion and allow sufficient time for 225  
the defendant to object to the disclosure. If the defendant 226  
objects to the disclosure, the court shall schedule a hearing to 227  
determine whether the party seeking access has demonstrated that 228  
access to the report is necessary for treatment of the defendant 229  
or for a criminal adjudication of the defendant for which the 230  
report was originally created. At that time the defendant shall 231  
be allowed an opportunity to provide the court with grounds for 232  
the objection. The court shall not provide access to the report 233  
unless the party seeking access can demonstrate that access to 234  
the report is necessary for treatment of the defendant or for a 235  
criminal adjudication of the defendant for which the report was 236  
originally created. 237

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

The report shall include all of the following: 245

(1) The examiner's findings; 246

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

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

(a) Whether the defendant is capable of understanding the 252

nature and objective of the proceedings against the defendant or 253  
of assisting in the defendant's defense; 254

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

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

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

(4) If the evaluation was ordered to determine the 282

defendant's mental condition at the time of the offense charged, 283  
the examiner's findings as to whether the defendant, at the time 284  
of the offense charged, did not know, as a result of a severe 285  
mental disease or defect, the wrongfulness of the defendant's 286  
acts charged. 287

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

separate intellectual disability evaluation conducted under this 314  
division has been filed. Upon the filing of that report, the 315  
court shall conduct the hearing within the period of time 316  
specified in division (C) of section 2945.37 of the Revised 317  
Code. 318

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

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

~~(K)~~ (L) Persons appointed as examiners under divisions (A) 340  
and (B) of this section or under division ~~(H)~~ (I) of this 341  
section shall be paid a reasonable amount for their services and 342  
expenses, as certified by the court. The certified amount shall 343

be paid by the county in the case of county courts and courts of 344  
common pleas and by the legislative authority, as defined in 345  
section 1901.03 of the Revised Code, in the case of municipal 346  
courts. 347

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

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

(ii) If the defendant has been charged with a felony 370  
offense and if, after taking into consideration all relevant 371  
reports, information, and other evidence, the court finds that 372  
the defendant is incompetent to stand trial, but the court is 373

unable at that time to determine whether there is a substantial 374  
probability that the defendant will become competent to stand 375  
trial within one year if the defendant is provided with a course 376  
of treatment, the court shall order continuing evaluation and 377  
treatment of the defendant for a period not to exceed four 378  
months to determine whether there is a substantial probability 379  
that the defendant will become competent to stand trial within 380  
one year if the defendant is provided with a course of 381  
treatment. 382

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

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

section. 405

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

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

(II) Order the defendant to undergo outpatient competency 432  
restoration treatment at a facility operated or certified by the 433  
department of mental health and addiction services as being 434

qualified to treat mental illness, at a public or community 435  
mental health facility, or in the care of a psychiatrist or 436  
other mental health professional. If a defendant who has been 437  
released on bail or recognizance refuses to comply with court- 438  
ordered outpatient treatment under this division, the court may 439  
dismiss the charges pending against the defendant and proceed 440  
under division (B)(1)(a)(v)(I) of this section or may amend the 441  
conditions of bail or recognizance and order the sheriff to take 442  
the defendant into custody and deliver the defendant to a 443  
center, program, or facility operated or certified by the 444  
department of mental health and addiction services for 445  
treatment. 446

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

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

addiction services as being qualified to treat mental illness, 466  
to a public or community mental health facility, or to a 467  
psychiatrist or another mental health professional for treatment 468  
or continuing evaluation and treatment. Prior to placing the 469  
defendant, the department of mental health and addiction 470  
services shall obtain court approval for that placement 471  
following a hearing. The court order for the defendant to 472  
undergo treatment or continuing evaluation and treatment under 473  
division (B) (1) (a) of this section shall specify that the 474  
defendant, if determined to require treatment or continuing 475  
evaluation and treatment for an intellectual disability, shall 476  
receive treatment or continuing evaluation and treatment at an 477  
institution or facility operated by the department of 478  
developmental disabilities, at a facility certified by the 479  
department of developmental disabilities as being qualified to 480  
treat intellectual disabilities, at a public or private 481  
intellectual disabilities facility, or by a psychiatrist or 482  
another intellectual disabilities professional. In any case, the 483  
order may restrict the defendant's freedom of movement as the 484  
court considers necessary. The prosecutor in the defendant's 485  
case shall send to the chief clinical officer of the hospital, 486  
facility, or agency where the defendant is placed by the 487  
department of mental health and addiction services, or to the 488  
managing officer of the institution, the director of the program 489  
or facility, or the person to which the defendant is committed, 490  
copies of relevant police reports and other background 491  
information that pertains to the defendant and is available to 492  
the prosecutor unless the prosecutor determines that the release 493  
of any of the information in the police reports or any of the 494  
other background information to unauthorized persons would 495  
interfere with the effective prosecution of any person or would 496  
create a substantial risk of harm to any person. 497

In determining the place of commitment, the court shall 498  
consider the extent to which the person is a danger to the 499  
person and to others, the need for security, the availability of 500  
housing and supportive services, including outpatient mental 501  
health services in the community, and the type of crime involved 502  
and shall order the least restrictive alternative available that 503  
is consistent with public safety and treatment goals. In 504  
weighing these factors, the court shall give preference to 505  
protecting public safety and the availability of housing and 506  
supportive services. 507

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

defendant charged with a felony offense. Following the hearing, 529  
the court may authorize the involuntary administration of 530  
medication or may dismiss the petition. 531

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

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

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

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:	559 560
(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;	561 562 563
(b) An offense of violence that is a felony of the first or second degree;	564 565
(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C) (1) (a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.	566 567 568 569
(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C) (1) of this section;	570 571 572
(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;	573 574 575
(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.	576 577 578
(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.	579 580 581 582 583
(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health and	584 585 586

addiction services or is committed to an institution or facility 587  
for the treatment of intellectual disabilities shall not be 588  
granted unsupervised on-grounds movement, supervised off-grounds 589  
movement, or nonsecured status except in accordance with the 590  
court order. The court may grant a defendant supervised off- 591  
grounds movement to obtain medical treatment or specialized 592  
habilitation treatment services if the person who supervises the 593  
treatment or the continuing evaluation and treatment of the 594  
defendant ordered under division (B) (1) (a) of this section 595  
informs the court that the treatment or continuing evaluation 596  
and treatment cannot be provided at the hospital or facility 597  
where the defendant is placed by the department of mental health 598  
and addiction services or the institution or facility to which 599  
the defendant is committed. The chief clinical officer of the 600  
hospital or facility where the defendant is placed by the 601  
department of mental health and addiction services or the 602  
managing officer of the institution or director of the facility 603  
to which the defendant is committed, or a designee of any of 604  
those persons, may grant a defendant movement to a medical 605  
facility for an emergency medical situation with appropriate 606  
supervision to ensure the safety of the defendant, staff, and 607  
community during that emergency medical situation. The chief 608  
clinical officer of the hospital or facility where the defendant 609  
is placed by the department of mental health and addiction 610  
services or the managing officer of the institution or director 611  
of the facility to which the defendant is committed shall notify 612  
the court within twenty-four hours of the defendant's movement 613  
to the medical facility for an emergency medical situation under 614  
this division. 615

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

treatment or continuing evaluation and treatment under division 618  
(B) (1) (a) of this section shall file a written report with the 619  
court at the following times: 620

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

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

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

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

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

opinion, the defendant remains incapable of understanding the 647  
nature and objective of the proceedings against the defendant 648  
and of assisting in the defendant's defense and there is a 649  
substantial probability that the defendant will become capable 650  
of understanding the nature and objective of the proceedings 651  
against the defendant and of assisting in the defendant's 652  
defense if the defendant is provided with a course of treatment, 653  
if in the examiner's opinion the defendant remains mentally ill 654  
or continues to have an intellectual disability, and if the 655  
maximum time for treatment as specified in division (C) of this 656  
section has not expired, the report also shall contain the 657  
examiner's recommendation as to the least restrictive placement 658  
or commitment alternative that is consistent with the 659  
defendant's treatment needs for restoration to competency and 660  
with the safety of the community. The court shall provide copies 661  
of the report to the prosecutor and defense counsel. 662

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

treating physician or examiner that the defendant is competent 678  
to stand trial, whichever is the earliest, the court shall 679  
conduct another hearing to determine if the defendant is 680  
competent to stand trial and shall do whichever of the following 681  
is applicable: 682

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

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

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

(4) If the court finds that the defendant is incompetent 707

to stand trial, if the most serious offense with which the 708  
defendant is charged is a misdemeanor or a felony other than a 709  
felony listed in division (C)(1) of this section, and if the 710  
court finds that there is not a substantial probability that the 711  
defendant will become competent to stand trial even if the 712  
defendant is provided with a course of treatment, or if the 713  
maximum time for treatment relative to that offense as specified 714  
in division (C) of this section has expired, the court shall 715  
dismiss the indictment, information, or complaint against the 716  
defendant. A dismissal under this division is not a bar to 717  
further prosecution based on the same conduct. The court shall 718  
discharge the defendant unless the court or prosecutor files an 719  
affidavit in probate court for civil commitment pursuant to 720  
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 721  
civil commitment is filed, the court may detain the defendant 722  
for ten days pending civil commitment- and shall send to the 723  
probate court copies of all written reports of the defendant's 724  
mental condition prepared pursuant to section 2945.371 of the 725  
Revised Code. 726

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

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

(i) Notify the prosecutor, in writing, of the discharge of 736  
the defendant, send the notice at least ten days prior to the 737

discharge unless the discharge is by the probate court, and 738  
state in the notice the date on which the defendant will be 739  
discharged; 740

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

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

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

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

Sec. 4732.40. The "Psychology Interjurisdictional Compact 764  
(PSYPACT)" is hereby ratified, enacted into law, and entered 765  
into by the state of Ohio as a party to the compact with any 766

other state that has legally joined in the compact as follows: 767

PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT) 768

ARTICLE I 769

PURPOSE 770

Whereas, states license psychologists, in order to protect 771  
the public through verification of education, training and 772  
experience and ensure accountability for professional practice; 773  
and 774

Whereas, this Compact is intended to regulate the day to 775  
day practice of telepsychology (i.e. the provision of 776  
psychological services using telecommunication technologies) by 777  
psychologists across state boundaries in the performance of 778  
their psychological practice as assigned by an appropriate 779  
authority; and 780

Whereas, this Compact is intended to regulate the 781  
temporary in-person, face-to-face practice of psychology by 782  
psychologists across state boundaries for 30 days within a 783  
calendar year in the performance of their psychological practice 784  
as assigned by an appropriate authority; 785

Whereas, this Compact is intended to authorize State 786  
Psychology Regulatory Authorities to afford legal recognition, 787  
in a manner consistent with the terms of the Compact, to 788  
psychologists licensed in another state; 789

Whereas, this Compact recognizes that states have a vested 790  
interest in protecting the public's health and safety through 791  
their licensing and regulation of psychologists and that such 792  
state regulation will best protect public health and safety; 793

Whereas, this Compact does not apply when a psychologist 794

is licensed in both the Home and Receiving States; and 795

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

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

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

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

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

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

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

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

ARTICLE II 818

DEFINITIONS 819

A. "Adverse Action" means: Any action taken by a State 820  
Psychology Regulatory Authority which finds a violation of a 821

statute or regulation that is identified by the State Psychology 822  
Regulatory Authority as discipline and is a matter of public 823  
record. 824

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

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

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

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

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

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

H. "Coordinated Licensure Information System" also 850

referred to as "Coordinated Database" means: an integrated 851  
process for collecting, storing, and sharing information on 852  
psychologists' licensure and enforcement activities related to 853  
psychology licensure laws, which is administered by the 854  
recognized membership organization composed of State and 855  
Provincial Psychology Regulatory Authorities. 856

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

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

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

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

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

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

Compact State where the psychologist is physically present when 880  
the telepsychological services are delivered. If the 881  
psychologist is licensed in more than one Compact State and is 882  
practicing under the Temporary Authorization to Practice, the 883  
Home State is any Compact State where the psychologist is 884  
licensed. 885

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

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

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

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

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

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

U. "Psychology Interjurisdictional Compact Commission" 907  
also referred to as "Commission" means: the national 908

administration of which all Compact States are members. 909

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

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

X. "Significant Investigatory Information" means: 921

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

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

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

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

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

BB. "Temporary Authorization to Practice" means: a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State. 939  
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CC. "Temporary In-Person, Face-to-Face Practice" means: where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State. 943  
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ARTICLE III 948

HOME STATE LICENSURE 949

A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology. 950  
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B. A psychologist may hold one or more Compact State licenses at a time. If the psychologist is licensed in more than one Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact. 952  
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C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact. 959  
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D. Any Compact State may require a psychologist to obtain 965  
and retain a license to be authorized to practice in a Compact 966  
State under circumstances not authorized by Temporary 967  
Authorization to Practice under the terms of this Compact. 968

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

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

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

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

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

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

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

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

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

3. Notifies the Commission, in compliance with the terms 993  
herein, of any adverse action or significant investigatory 994  
information regarding a licensed individual; 995

4. Requires an Identity History Summary of all applicants 996  
at initial licensure, including the use of the results of 997  
fingerprints or other biometric data checks compliant with the 998  
requirements of the Federal Bureau of Investigation FBI, or 999  
other designee with similar authority, no later than ten years 1000  
after activation of the Compact; and 1001

5. Complies with the Bylaws and Rules of the Commission. 1002

ARTICLE IV 1003

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY 1004

A. Compact States shall recognize the right of a 1005  
psychologist, licensed in a Compact State in conformance with 1006  
Article III, to practice telepsychology in other Compact States 1007  
(Receiving States) in which the psychologist is not licensed, 1008  
under the Authority to Practice Interjurisdictional 1009  
Telepsychology as provided in the Compact. 1010

B. To exercise the Authority to Practice 1011  
Interjurisdictional Telepsychology under the terms and 1012  
provisions of this Compact, a psychologist licensed to practice 1013  
in a Compact State must: 1014

1. Hold a graduate degree in psychology from an institute 1015  
of higher education that was, at the time the degree was 1016  
awarded: 1017

a. Regionally accredited by an accrediting body recognized 1018  
by the U.S. Department of Education to grant graduate degrees, 1019  
OR authorized by Provincial Statute or Royal Charter to grant 1020

doctoral degrees; OR 1021

b. A foreign college or university deemed to be equivalent 1022  
to 1 (a) above by a foreign credential evaluation service that 1023  
is a member of the National Association of Credential Evaluation 1024  
Services (NACES) or by a recognized foreign credential 1025  
evaluation service; AND 1026

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

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

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

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

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

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

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

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

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

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; 1051  
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1053  
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j. The program includes an acceptable residency as defined by the Rules of the Commission. 1055  
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3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State; 1057  
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4. Have no history of adverse action that violate the Rules of the Commission; 1059  
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5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission; 1061  
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6. Possess a current, active E.Passport; 1063

7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and 1064  
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8. Meet other criteria as defined by the Rules of the Commission. 1071  
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C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology. 1073  
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D. A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission. 1076  
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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. 1086  
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ARTICLE V 1093

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE 1094

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. 1095  
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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: 1100  
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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 1103  
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<u>awarded:</u>	1105
<u>a. Regionally accredited by an accrediting body recognized</u>	1106
<u>by the U.S. Department of Education to grant graduate degrees,</u>	1107
<u>OR authorized by Provincial Statute or Royal Charter to grant</u>	1108
<u>doctoral degrees; OR</u>	1109
<u>b. A foreign college or university deemed to be equivalent</u>	1110
<u>to 1 (a) above by a foreign credential evaluation service that</u>	1111
<u>is a member of the National Association of Credential Evaluation</u>	1112
<u>Services (NACES) or by a recognized foreign credential</u>	1113
<u>evaluation service; AND</u>	1114
<u>2. Hold a graduate degree in psychology that meets the</u>	1115
<u>following criteria:</u>	1116
<u>a. The program, wherever it may be administratively</u>	1117
<u>housed, must be clearly identified and labeled as a psychology</u>	1118
<u>program. Such a program must specify in pertinent institutional</u>	1119
<u>catalogues and brochures its intent to educate and train</u>	1120
<u>professional psychologists;</u>	1121
<u>b. The psychology program must stand as a recognizable,</u>	1122
<u>coherent, organizational entity within the institution;</u>	1123
<u>c. There must be a clear authority and primary</u>	1124
<u>responsibility for the core and specialty areas whether or not</u>	1125
<u>the program cuts across administrative lines;</u>	1126
<u>d. The program must consist of an integrated, organized</u>	1127
<u>sequence of study;</u>	1128
<u>e. There must be an identifiable psychology faculty</u>	1129
<u>sufficient in size and breadth to carry out its</u>	1130
<u>responsibilities;</u>	1131
<u>f. The designated director of the program must be a</u>	1132

- psychologist and a member of the core faculty; 1133
- g. The program must have an identifiable body of students 1134  
who are matriculated in that program for a degree; 1135
- h. The program must include supervised practicum, 1136  
internship, or field training appropriate to the practice of 1137  
psychology; 1138
- i. The curriculum shall encompass a minimum of three 1139  
academic years of full-time graduate study for doctoral degrees 1140  
and a minimum of one academic year of full-time graduate study 1141  
for master's degree; 1142
- j. The program includes an acceptable residency as defined 1143  
by the Rules of the Commission. 1144
3. Possess a current, full and unrestricted license to 1145  
practice psychology in a Home State which is a Compact State; 1146
4. No history of adverse action that violate the Rules of 1147  
the Commission; 1148
5. No criminal record history that violates the Rules of 1149  
the Commission; 1150
6. Possess a current, active IPC; 1151
7. Provide attestations in regard to areas of intended 1152  
practice and work experience and provide a release of 1153  
information to allow for primary source verification in a manner 1154  
specified by the Commission; and 1155
8. Meet other criteria as defined by the Rules of the 1156  
Commission. 1157
- C. A psychologist practicing into a Distant State under 1158  
the Temporary Authorization to Practice shall practice within 1159

the scope of practice authorized by the Distant State. 1160

D. A psychologist practicing into a Distant State under 1161  
the Temporary Authorization to Practice will be subject to the 1162  
Distant State's authority and law. A Distant State may, in 1163  
accordance with that state's due process law, limit or revoke a 1164  
psychologist's Temporary Authorization to Practice in the 1165  
Distant State and may take any other necessary actions under the 1166  
Distant State's applicable law to protect the health and safety 1167  
of the Distant State's citizens. If a Distant State takes 1168  
action, the state shall promptly notify the Home State and the 1169  
Commission. 1170

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

ARTICLE VI 1177

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE 1178

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

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

2. Other conditions regarding telepsychology as determined 1188

by Rules promulgated by the Commission. 1189

ARTICLE VII 1190

ADVERSE ACTIONS 1191

A. A Home State shall have the power to impose adverse 1192  
action against a psychologist's license issued by the Home 1193  
State. A Distant State shall have the power to take adverse 1194  
action on a psychologist's Temporary Authorization to Practice 1195  
within that Distant State. 1196

B. A Receiving State may take adverse action on a 1197  
psychologist's Authority to Practice Interjurisdictional 1198  
Telepsychology within that Receiving State. A Home State may 1199  
take adverse action against a psychologist based on an adverse 1200  
action taken by a Distant State regarding temporary in-person, 1201  
face-to-face practice. 1202

C. If a Home State takes adverse action against a 1203  
psychologist's license, that psychologist's Authority to 1204  
Practice Interjurisdictional Telepsychology is terminated and 1205  
the E.Passport is revoked. Furthermore, that psychologist's 1206  
Temporary Authorization to Practice is terminated and the IPC is 1207  
revoked. 1208

1. All Home State disciplinary orders which impose adverse 1209  
action shall be reported to the Commission in accordance with 1210  
the Rules promulgated by the Commission. A Compact State shall 1211  
report adverse actions in accordance with the Rules of the 1212  
Commission. 1213

2. In the event discipline is reported on a psychologist, 1214  
the psychologist will not be eligible for telepsychology or 1215  
temporary in-person, face-to-face practice in accordance with 1216  
the Rules of the Commission. 1217

3. Other actions may be imposed as determined by the Rules 1218  
promulgated by the Commission. 1219

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

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

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

G. No other judicial or administrative remedies shall be 1246  
available to a psychologist in the event a Compact State imposes 1247

an adverse action pursuant to subsection C, above. 1248

ARTICLE VIII 1249

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY 1250

REGULATORY AUTHORITY 1251

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

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

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

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

investigations to the Commission. Once an investigation has been 1277  
completed, and pending the outcome of said investigation, the 1278  
psychologist may change his/her Home State licensure. The 1279  
Commission shall promptly notify the new Home State of any such 1280  
decisions as provided in the Rules of the Commission. All 1281  
information provided to the Commission or distributed by Compact 1282  
States pursuant to the psychologist shall be confidential, filed 1283  
under seal and used for investigatory or disciplinary matters. 1284  
The Commission may create additional rules for mandated or 1285  
discretionary sharing of information by Compact States. 1286

ARTICLE IX 1287

COORDINATED LICENSURE INFORMATION SYSTEM 1288

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

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

1. Identifying information; 1299
2. Licensure data; 1300
3. Significant investigatory information; 1301
4. Adverse actions against a psychologist's license; 1302
5. An indicator that a psychologist's Authority to 1303  
Practice Interjurisdictional Telepsychology and/or Temporary 1304

<u>Authorization to Practice is revoked;</u>	1305
<u>6. Non-confidential information related to alternative</u>	1306
<u>program participation information;</u>	1307
<u>7. Any denial of application for licensure, and the</u>	1308
<u>reasons for such denial; and</u>	1309
<u>8. Other information which may facilitate the</u>	1310
<u>administration of this Compact, as determined by the Rules of</u>	1311
<u>the Commission.</u>	1312
<u>C. The Coordinated Database administrator shall promptly</u>	1313
<u>notify all Compact States of any adverse action taken against,</u>	1314
<u>or significant investigative information on, any licensee in a</u>	1315
<u>Compact State.</u>	1316
<u>D. Compact States reporting information to the Coordinated</u>	1317
<u>Database may designate information that may not be shared with</u>	1318
<u>the public without the express permission of the Compact State</u>	1319
<u>reporting the information.</u>	1320
<u>E. Any information submitted to the Coordinated Database</u>	1321
<u>that is subsequently required to be expunged by the law of the</u>	1322
<u>Compact State reporting the information shall be removed from</u>	1323
<u>the Coordinated Database.</u>	1324
<u>ARTICLE X</u>	1325
<u>ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT</u>	1326
<u>COMMISSION</u>	1327
<u>A. The Compact States hereby create and establish a joint</u>	1328
<u>public agency known as the Psychology Interjurisdictional</u>	1329
<u>Compact Commission.</u>	1330
<u>1. The Commission is a body politic and an instrumentality</u>	1331

of the Compact States. 1332

2. Venue is proper and judicial proceedings by or against 1333  
the Commission shall be brought solely and exclusively in a 1334  
court of competent jurisdiction where the principal office of 1335  
the Commission is located. The Commission may waive venue and 1336  
jurisdictional defenses to the extent it adopts or consents to 1337  
participate in alternative dispute resolution proceedings. 1338

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

B. Membership, Voting, and Meetings 1341

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

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

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

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

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

3. Each Commissioner shall be entitled to one (1) vote 1359

with regard to the promulgation of Rules and creation of Bylaws 1360  
and shall otherwise have an opportunity to participate in the 1361  
business and affairs of the Commission. A Commissioner shall 1362  
vote in person or by such other means as provided in the Bylaws. 1363  
The Bylaws may provide for Commissioners' participation in 1364  
meetings by telephone or other means of communication. 1365

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

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

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

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

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

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

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

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

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

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; 1388  
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h. Disclosure of investigatory records compiled for law enforcement purposes; 1391  
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i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or 1393  
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j. Matters specifically exempted from disclosure by federal and state statute. 1398  
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7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction. 1400  
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C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but 1413  
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<u>not limited to:</u>	1417
<u>1. Establishing the fiscal year of the Commission;</u>	1418
<u>2. Providing reasonable standards and procedures:</u>	1419
<u>a. for the establishment and meetings of other committees;</u>	1420
<u>and</u>	1421
<u>b. governing any general or specific delegation of any</u>	1422
<u>authority or function of the Commission;</u>	1423
<u>3. Providing reasonable procedures for calling and</u>	1424
<u>conducting meetings of the Commission, ensuring reasonable</u>	1425
<u>advance notice of all meetings and providing an opportunity for</u>	1426
<u>attendance of such meetings by interested parties, with</u>	1427
<u>enumerated exceptions designed to protect the public's interest,</u>	1428
<u>the privacy of individuals of such proceedings, and proprietary</u>	1429
<u>information, including trade secrets. The Commission may meet in</u>	1430
<u>closed session only after a majority of the Commissioners vote</u>	1431
<u>to close a meeting to the public in whole or in part. As soon as</u>	1432
<u>practicable, the Commission must make public a copy of the vote</u>	1433
<u>to close the meeting revealing the vote of each Commissioner</u>	1434
<u>with no proxy votes allowed;</u>	1435
<u>4. Establishing the titles, duties and authority and</u>	1436
<u>reasonable procedures for the election of the officers of the</u>	1437
<u>Commission;</u>	1438
<u>5. Providing reasonable standards and procedures for the</u>	1439
<u>establishment of the personnel policies and programs of the</u>	1440
<u>Commission. Notwithstanding any civil service or other similar</u>	1441
<u>law of any Compact State, the Bylaws shall exclusively govern</u>	1442
<u>the personnel policies and programs of the Commission;</u>	1443
<u>6. Promulgating a Code of Ethics to address permissible</u>	1444

and prohibited activities of Commission members and employees; 1445

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

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

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

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

D. The Commission shall have the following powers: 1459

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

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

3. To purchase and maintain insurance and bonds; 1469

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

5. To hire employees, elect or appoint officers, fix 1473  
compensation, define duties, grant such individuals appropriate 1474  
authority to carry out the purposes of the Compact, and to 1475  
establish the Commission's personnel policies and programs 1476  
relating to conflicts of interest, qualifications of personnel, 1477  
and other related personnel matters; 1478
6. To accept any and all appropriate donations and grants 1479  
of money, equipment, supplies, materials and services, and to 1480  
receive, utilize and dispose of the same; provided that at all 1481  
times the Commission shall strive to avoid any appearance of 1482  
impropriety and/or conflict of interest; 1483
7. To lease, purchase, accept appropriate gifts or 1484  
donations of, or otherwise to own, hold, improve or use, any 1485  
property, real, personal or mixed; provided that at all times 1486  
the Commission shall strive to avoid any appearance of 1487  
impropriety; 1488
8. To sell, convey, mortgage, pledge, lease, exchange, 1489  
abandon or otherwise dispose of any property real, personal or 1490  
mixed; 1491
9. To establish a budget and make expenditures; 1492
10. To borrow money; 1493
11. To appoint committees, including advisory committees 1494  
comprised of Members, State regulators, State legislators or 1495  
their representatives, and consumer representatives, and such 1496  
other interested persons as may be designated in this Compact 1497  
and the Bylaws; 1498
12. To provide and receive information from, and to 1499  
cooperate with, law enforcement agencies; 1500

<u>13. To adopt and use an official seal; and</u>	1501
<u>14. To perform such other functions as may be necessary or</u>	1502
<u>appropriate to achieve the purposes of this Compact consistent</u>	1503
<u>with the state regulation of psychology licensure, temporary in-</u>	1504
<u>person, face-to-face practice and telepsychology practice.</u>	1505
<u>E. The Executive Board</u>	1506
<u>The elected officers shall serve as the Executive Board,</u>	1507
<u>which shall have the power to act on behalf of the Commission</u>	1508
<u>according to the terms of this Compact.</u>	1509
<u>1. The Executive Board shall be comprised of six members:</u>	1510
<u>a. Five voting members who are elected from the current</u>	1511
<u>membership of the Commission by the Commission;</u>	1512
<u>b. One ex-officio, nonvoting member from the recognized</u>	1513
<u>membership organization composed of State and Provincial</u>	1514
<u>Psychology Regulatory Authorities.</u>	1515
<u>2. The ex-officio member must have served as staff or</u>	1516
<u>member on a State Psychology Regulatory Authority and will be</u>	1517
<u>selected by its respective organization.</u>	1518
<u>3. The Commission may remove any member of the Executive</u>	1519
<u>Board as provided in Bylaws.</u>	1520
<u>4. The Executive Board shall meet at least annually.</u>	1521
<u>5. The Executive Board shall have the following duties and</u>	1522
<u>responsibilities:</u>	1523
<u>a. Recommend to the entire Commission changes to the Rules</u>	1524
<u>or Bylaws, changes to this Compact legislation, fees paid by</u>	1525
<u>Compact States such as annual dues, and any other applicable</u>	1526
<u>fees;</u>	1527

<u>b. Ensure Compact administration services are</u>	1528
<u>appropriately provided, contractual or otherwise;</u>	1529
<u>c. Prepare and recommend the budget;</u>	1530
<u>d. Maintain financial records on behalf of the Commission;</u>	1531
<u>e. Monitor Compact compliance of member states and provide</u>	1532
<u>compliance reports to the Commission;</u>	1533
<u>f. Establish additional committees as necessary; and</u>	1534
<u>g. Other duties as provided in Rules or Bylaws.</u>	1535
<u>F. Financing of the Commission</u>	1536
<u>1. The Commission shall pay, or provide for the payment of</u>	1537
<u>the reasonable expenses of its establishment, organization and</u>	1538
<u>ongoing activities.</u>	1539
<u>2. The Commission may accept any and all appropriate</u>	1540
<u>revenue sources, donations and grants of money, equipment,</u>	1541
<u>supplies, materials and services.</u>	1542
<u>3. The Commission may levy on and collect an annual</u>	1543
<u>assessment from each Compact State or impose fees on other</u>	1544
<u>parties to cover the cost of the operations and activities of</u>	1545
<u>the Commission and its staff which must be in a total amount</u>	1546
<u>sufficient to cover its annual budget as approved each year for</u>	1547
<u>which revenue is not provided by other sources. The aggregate</u>	1548
<u>annual assessment amount shall be allocated based upon a formula</u>	1549
<u>to be determined by the Commission which shall promulgate a rule</u>	1550
<u>binding upon all Compact States.</u>	1551
<u>4. The Commission shall not incur obligations of any kind</u>	1552
<u>prior to securing the funds adequate to meet the same; nor shall</u>	1553
<u>the Commission pledge the credit of any of the Compact States,</u>	1554

except by and with the authority of the Compact State. 1555

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

G. Qualified Immunity, Defense, and Indemnification 1564

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

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

scope of Commission employment, duties or responsibilities; 1585  
provided that nothing herein shall be construed to prohibit that 1586  
person from retaining his or her own counsel; and provided 1587  
further, that the actual or alleged act, error or omission did 1588  
not result from that person's intentional or willful or wanton 1589  
misconduct. 1590

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

ARTICLE XI 1602

RULEMAKING 1603

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

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

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

- D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking: 1614  
1615  
1616  
1617
1. On the website of the Commission; and 1618
  2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules. 1619  
1620  
1621
- E. The Notice of Proposed Rulemaking shall include: 1622
1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon; 1623  
1624
  2. The text of the proposed rule or amendment and the reason for the proposed rule; 1625  
1626
  3. A request for comments on the proposed rule from any interested person; and 1627  
1628
  4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments. 1629  
1630  
1631
- F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public. 1632  
1633  
1634
- G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by: 1635  
1636  
1637
1. At least twenty-five (25) persons who submit comments independently of each other; 1638  
1639
  2. A governmental subdivision or agency; or 1640

3. A duly appointed person in an association that has 1641  
having at least twenty-five (25) members. 1642

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

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

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

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

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

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

J. The Commission shall, by majority vote of all members, 1669

take final action on the proposed rule and shall determine the 1670  
effective date of the rule, if any, based on the rulemaking 1671  
record and the full text of the rule. 1672

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

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

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

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

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

4. Protect public health and safety. 1692

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

any person for a period of thirty (30) days after posting. The 1699  
revision may be challenged only on grounds that the revision 1700  
results in a material change to a rule. A challenge shall be 1701  
made in writing, and delivered to the Chair of the Commission 1702  
prior to the end of the notice period. If no challenge is made, 1703  
the revision will take effect without further action. If the 1704  
revision is challenged, the revision may not take effect without 1705  
the approval of the Commission. 1706

ARTICLE XII 1707

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT 1708

A. Oversight 1709

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

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

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

B. Default, Technical Assistance, and Termination 1727

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

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 1732  
1733  
1734  
1735

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

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

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

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

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

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

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

C. Dispute Resolution 1765

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

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

D. Enforcement 1772

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

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

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

ARTICLE XIII 1788

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

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

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

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

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

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

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

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

ARTICLE XIV 1823

CONSTRUCTION AND SEVERABILITY 1824

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

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

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

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

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

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

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

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

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

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

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

(6) Conduct the hearing. 1874

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Code shall not voluntarily admit the person or be 2023  
voluntarily admitted to a hospital pursuant to this section 2024  
until after the final termination of the commitment, as 2025  
described in division (J) of section 2945.401 of the Revised 2026  
Code. 2027

**Sec. 5122.03.** A patient admitted under section 5122.02 of 2028  
the Revised Code who requests release in writing, or whose 2029  
release is requested in writing by the patient's counsel, legal 2030  
guardian, parent, spouse, or adult next of kin shall be released 2031  
forthwith, except ~~that~~ when any of the following is the case: 2032

(A) The patient was admitted on the patient's own 2033  
application and the request for release is made by a person 2034  
other than the patient, release may be conditional upon the 2035  
agreement of the patient; ~~or.~~ 2036

(B) The patient was, within the past twelve months, a 2037  
defendant described in division (B) (1) (a) (v) (I) of section 2038  
2945.38 of the Revised Code and the chief clinical officer of 2039  
the hospital decides not to file or cause to be filed an 2040  
affidavit under section 5122.11 of the Revised Code as described 2041  
in division (C) of this section. In that circumstance, the chief 2042  
clinical officer shall immediately notify the trial court or 2043  
prosecutor described in division (B) (1) (a) (v) (I) of section 2044  
2945.38 of the Revised Code of the chief clinical officer's 2045  
decision and intent to release the patient. Not later than three 2046  
court days after being notified of the intent to release, the 2047  
trial court or prosecutor may file or cause to be filed with the 2048  
court of the county where the patient is hospitalized, or the 2049  
court of the county where the patient resides, an affidavit 2050  
under section 5122.11 of the Revised Code. If such an affidavit 2051  
is filed, the patient's release must be postponed until a 2052

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AFFIDAVIT OF MENTAL ILLNESS

The State of Ohio

\_\_\_\_\_ County, ss.

\_\_\_\_\_ Court

\_\_\_\_\_  
the undersigned, residing at

\_\_\_\_\_  
says, that he/she has information to believe or has actual knowledge that

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

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

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

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

[ ] Would benefit from treatment for mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person; or 2169  
2170  
2171  
2172

[ ] Would benefit from treatment as manifested by evidence of behavior that indicates all of the following: 2173  
2174

(a) The person is unlikely to survive safely in the community without supervision, based on a clinical determination. 2175  
2176

(b) The person has a history of lack of compliance with treatment for mental illness and one of the following applies: 2177  
2178

(i) At least twice within the thirty-six months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the thirty-six-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the thirty-six-month period. 2179  
2180  
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(ii) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the forty-eight-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight-month period. 2188  
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2196

(c) The person, as a result of mental illness, is unlikely to 2197

voluntarily participate in necessary treatment. 2198

(d) In view of the person's treatment history and current 2199

behavior, the person is in need of treatment in order to prevent 2200

a relapse or deterioration that would be likely to result in 2201

substantial risk of serious harm to the person or others. 2202

\_\_\_\_\_ 2203

(Name of the party filing the affidavit) further says that the 2204

facts supporting this belief are as follows: 2205

\_\_\_\_\_ 2206

\_\_\_\_\_ 2207

\_\_\_\_\_ 2208

\_\_\_\_\_ 2209

\_\_\_\_\_ 2210

\_\_\_\_\_ 2211

These facts being sufficient to indicate probable cause that the 2212

above said person is a mentally ill person subject to court 2213

order. 2214

Name The undersigned represents a trial court or a prosecutor 2215

who, as described in division (B) (1) (a) (v) (I) of section 2945.38 2216

of the Revised Code, is alleging that the above said person is a 2217

mentally ill person subject to court order: [ ] Yes [ ] No 2218

(please specify answer with an X). If Yes, please specify the 2219

name and address of the trial court or prosecutor: 2220

\_\_\_\_\_ 2221

\_\_\_\_\_ 2222

Name of Patient's Last Physician or Licensed Clinical 2223

Psychologist 2224

\_\_\_\_\_ 2225

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

\_\_\_\_\_  
\_\_\_\_\_  
2228  
2229

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
2243  
2244  
2245  
2246  
2247

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ 2248

\_\_\_\_\_  
2249

Signature of the party filing  
the affidavit 2250  
2251

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

_____	2254
Signature of Probate Judge,	2255
Deputy Clerk, or Notary	2256
Public	2257
WAIVER	2258
I, the undersigned party filing the affidavit hereby waive the	2259
issuing and service of notice of the hearing on said affidavit,	2260
and voluntarily enter my appearance herein.	2261
Dated this _____ day of _____, 20__	2262
_____	2263
Signature of the party filing	2264
the affidavit	2265
<u>Sec. 5122.112. A probate court that terminates</u>	2266
<u>jurisdiction over a defendant described in division (B) (1) (a) (v)</u>	2267
<u>(I) of section 2945.38 of the Revised Code, for whom a trial</u>	2268
<u>court or prosecutor initiated proceedings alleging that the</u>	2269
<u>defendant is a mentally ill person subject to court order</u>	2270
<u>pursuant to sections 5122.11 to 5122.15 of the Revised Code,</u>	2271
<u>shall immediately do both of the following:</u>	2272
<u>(A) Notify the initiating court or prosecutor of the</u>	2273
<u>termination;</u>	2274
<u>(B) Transmit to the initiating court a copy of any records</u>	2275
<u>in its possession that pertain to the defendant's mental illness</u>	2276
<u>or treatment for mental illness.</u>	2277
<b>Section 2.</b> That existing sections 2945.37, 2945.371,	2278
2945.38, 5119.94, 5122.02, 5122.03, 5122.11, and 5122.111 of the	2279
Revised Code are hereby repealed.	2280