

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 622

Representatives Williams, Robb Blasdel

To amend sections 2945.37, 2945.38, 2945.39, and 1
2945.401 and to enact section 5120.101 of the 2
Revised Code to enact the Mental Health and 3
Community Wellness Act to amend the competency 4
to stand trial law, to create the mental health 5
and substance abuse community-based correctional 6
facility pilot program, to require a prosecutor 7
to file for civil confinement of a defendant who 8
is found incompetent to stand trial and who is 9
charged with a felony or a misdemeanor offense 10
of violence, and to make an appropriation. 11

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

Section 1. That sections 2945.37, 2945.38, 2945.39, and 12
2945.401 be amended and section 5120.101 of the Revised Code be 13
enacted to read as follows: 14

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 15
of the Revised Code: 16

(1) "Prosecutor" means a prosecuting attorney or a city 17
director of law, village solicitor, or similar chief legal 18
officer of a municipal corporation who has authority to 19
prosecute a criminal case that is before the court or the 20

criminal case in which a defendant in a criminal case has been 21
found incompetent to stand trial or not guilty by reason of 22
insanity. 23

(2) "Examiner" means either of the following: 24

(a) A psychiatrist or a licensed clinical psychologist who 25
satisfies the criteria of division (I) of section 5122.01 of the 26
Revised Code or is employed by a certified forensic center 27
designated by the department of ~~mental health and addiction~~ 28
~~services~~ behavioral health to conduct examinations or 29
evaluations. 30

(b) For purposes of a separate intellectual disability 31
evaluation that is ordered by a court pursuant to division (I) 32
of section 2945.371 of the Revised Code, a psychologist 33
designated by the director of developmental disabilities 34
pursuant to that section to conduct that separate intellectual 35
disability evaluation. 36

(3) "Nonsecured status" means any unsupervised, off- 37
grounds movement or trial visit from a hospital or institution, 38
or any conditional release, that is granted to a person who is 39
found incompetent to stand trial and is committed pursuant to 40
section 2945.39 of the Revised Code or to a person who is found 41
not guilty by reason of insanity and is committed pursuant to 42
section 2945.40 of the Revised Code. 43

(4) "Unsupervised, off-grounds movement" includes only 44
off-grounds privileges that are unsupervised and that have an 45
expectation of return to the hospital or institution on a daily 46
basis. 47

(5) "Trial visit" means a patient privilege of a longer 48
stated duration of unsupervised community contact with an 49

expectation of return to the hospital or institution at 50
designated times. 51

(6) "Conditional release" means a commitment status under 52
which the trial court at any time may revoke a person's 53
conditional release and order the rehospitization or 54
reinstitutionalization of the person as described in division 55
(A) of section 2945.402 of the Revised Code and pursuant to 56
which a person who is found incompetent to stand trial or a 57
person who is found not guilty by reason of insanity lives and 58
receives treatment in the community for a period of time that 59
does not exceed the maximum prison term or term of imprisonment 60
that the person could have received for the offense in question 61
had the person been convicted of the offense instead of being 62
found incompetent to stand trial on the charge of the offense or 63
being found not guilty by reason of insanity relative to the 64
offense. 65

(7) "Licensed clinical psychologist," ~~"person with a~~ 66
~~mental illness subject to court order,"~~ and "psychiatrist" have 67
the same meanings as in section 5122.01 of the Revised Code. 68

(8) "Person with an intellectual disability subject to 69
institutionalization by court order" has the same meaning as in 70
section 5123.01 of the Revised Code. 71

(9) "Jail" has the same meaning as in section 2929.01 of 72
the Revised Code. 73

(10) "Person with a mental illness subject to court order" 74
means a person with a mental illness who, because of the 75
person's illness: 76

(a) Represents a substantial risk of physical harm to self 77
as manifested by evidence of threats of, or attempts at, suicide 78

or serious self-inflicted bodily harm; 79

(b) Represents a substantial risk of physical harm to 80
others as manifested by evidence of recent homicidal or other 81
violent behavior, evidence of recent threats that place another 82
in reasonable fear of violent behavior and serious physical 83
harm, or other evidence of present dangerousness; 84

(c) Represents a substantial and immediate risk of serious 85
physical impairment or injury to self as manifested by evidence 86
that the person is unable to provide for and is not providing 87
for the person's basic physical needs because of the person's 88
mental illness and that appropriate provision for those needs 89
cannot be made immediately available in the community; 90

(d) Would benefit from treatment for the person's mental 91
illness and is in need of such treatment as manifested by 92
evidence of behavior that creates a grave and imminent risk to 93
substantial rights of others or the person; 94

(e) (i) Would benefit from treatment as manifested by 95
evidence of behavior that indicates all of the following: 96

(I) The person is unlikely to survive safely in the 97
community without supervision, based on a clinical 98
determination. 99

(II) The person has a history of lack of compliance with 100
treatment for mental illness and one of the following applies: 101

At least twice within the thirty-six months prior to the 102
filing of an affidavit seeking court-ordered treatment of the 103
person under section 5122.111 of the Revised Code, the lack of 104
compliance has been a significant factor in necessitating 105
hospitalization in a hospital or receipt of services in a 106
forensic or other mental health unit of a correctional facility, 107

provided that the thirty-six-month period shall be extended by 108
the length of any hospitalization or incarceration of the person 109
that occurred within the thirty-six-month period. 110

Within the forty-eight months prior to the filing of an 111
affidavit seeking court-ordered treatment of the person under 112
section 5122.111 of the Revised Code, the lack of compliance 113
resulted in one or more acts of serious violent behavior toward 114
self or others or threats of, or attempts at, serious physical 115
harm to self or others, provided that the forty-eight-month 116
period shall be extended by the length of any hospitalization or 117
incarceration of the person that occurred within the forty- 118
eight-month period. 119

(III) The person, as a result of the person's mental 120
illness, is unlikely to voluntarily participate in necessary 121
treatment. 122

(IV) In view of the person's treatment history and current 123
behavior, the person is in need of treatment in order to prevent 124
a relapse or deterioration that would be likely to result in a 125
substantial risk of serious physical harm to the person or 126
others. 127

(V) In view of the person's criminal history and current 128
behavior, the person is in need of treatment in order to prevent 129
a relapse or deterioration that would be likely to result in a 130
substantial risk of the person committing additional criminal 131
acts. 132

(ii) An individual who meets only the criteria described 133
in division (A) (10) (e) (i) of this section is not subject to 134
hospitalization unless criminal proceedings are pending against 135
the individual and the court seeks hospitalization under 136

sections 2945.37 to 2945.402 of the Revised Code. 137

(B) In a criminal action in a court of common pleas, a 138
county court, or a municipal court, the court, prosecutor, or 139
defense may raise the issue of the defendant's competence to 140
stand trial. If the issue is raised before the trial has 141
commenced, the court shall hold a hearing on the issue as 142
provided in this section. If the issue is raised after the trial 143
has commenced, the court shall hold a hearing on the issue only 144
for good cause shown or on the court's own motion. 145

(C) The court shall conduct the hearing required or 146
authorized under division (B) of this section within thirty days 147
after the issue is raised, unless the defendant has been 148
referred for evaluation in which case the court shall conduct 149
the hearing within ten days after the filing of the report of 150
the evaluation or, in the case of a defendant who is ordered by 151
the court pursuant to division (I) of section 2945.371 of the 152
Revised Code to undergo a separate intellectual disability 153
evaluation conducted by a psychologist designated by the 154
director of developmental disabilities, within ten days after 155
the filing of the report of the separate intellectual disability 156
evaluation under that division. A hearing may be continued for 157
good cause. 158

(D) The defendant shall be represented by counsel at the 159
hearing conducted under division (C) of this section. If the 160
defendant is unable to obtain counsel, the court shall appoint 161
counsel under Chapter 120. of the Revised Code or under the 162
authority recognized in division (C) of section 120.06, division 163
(E) of section 120.16, division (E) of section 120.26, or 164
section 2941.51 of the Revised Code before proceeding with the 165
hearing. 166

(E) The prosecutor and defense counsel may submit evidence 167
on the issue of the defendant's competence to stand trial. A 168
written report of the evaluation of the defendant may be 169
admitted into evidence at the hearing by stipulation, but, if 170
either the prosecution or defense objects to its admission, the 171
report may be admitted under sections 2317.36 to 2317.38 of the 172
Revised Code or any other applicable statute or rule. 173

(F) The court shall not find a defendant incompetent to 174
stand trial solely because the defendant is receiving or has 175
received treatment as a voluntary or involuntary patient with a 176
mental illness under Chapter 5122. or a voluntary or involuntary 177
resident with an intellectual disability under Chapter 5123. of 178
the Revised Code or because the defendant is receiving or has 179
received psychotropic drugs or other medication, even if the 180
defendant might become incompetent to stand trial without the 181
drugs or medication. 182

(G) A defendant is presumed to be competent to stand 183
trial. If, after a hearing, the court finds by a preponderance 184
of the evidence that, because of the defendant's present mental 185
condition, the defendant is incapable of understanding the 186
nature and objective of the proceedings against the defendant or 187
of assisting in the defendant's defense, the court shall find 188
the defendant incompetent to stand trial and shall enter an 189
order authorized by section 2945.38 of the Revised Code. 190

(H) Municipal courts shall follow the procedures set forth 191
in sections 2945.37 to 2945.402 of the Revised Code. Except as 192
provided in section 2945.371 of the Revised Code, a municipal 193
court shall not order an evaluation of the defendant's 194
competence to stand trial or the defendant's mental condition at 195
the time of the commission of the offense to be conducted at any 196

hospital operated by the department of ~~mental health and~~ 197
~~addiction services~~ behavioral health. Those evaluations shall be 198
performed through community resources including, but not limited 199
to, certified forensic centers, court probation departments, and 200
community mental health services providers. All expenses of the 201
evaluations shall be borne by the legislative authority of the 202
municipal court, as defined in section 1901.03 of the Revised 203
Code, and shall be taxed as costs in the case. If a defendant is 204
found incompetent to stand trial or not guilty by reason of 205
insanity, a municipal court may commit the defendant as provided 206
in sections 2945.38 to 2945.402 of the Revised Code. 207

Sec. 2945.38. (A) If the issue of a defendant's competence 208
to stand trial is raised and if the court, upon conducting the 209
hearing provided for in section 2945.37 of the Revised Code, 210
finds that the defendant is competent to stand trial, the 211
defendant shall be proceeded against as provided by law. If the 212
court finds the defendant competent to stand trial and the 213
defendant is receiving psychotropic drugs or other medication, 214
the court may authorize the continued administration of the 215
drugs or medication or other appropriate treatment in order to 216
maintain the defendant's competence to stand trial, unless the 217
defendant's attending physician advises the court against 218
continuation of the drugs, other medication, or treatment. 219

(B) (1) (a) (i) If the defendant has been charged with a 220
felony offense or a misdemeanor offense of violence for which 221
the prosecutor has not recommended the procedures under division 222
(B) (1) (a) (vi) of this section and if, after taking into 223
consideration all relevant reports, information, and other 224
evidence, the court finds that the defendant is incompetent to 225
stand trial and that there is a substantial probability that the 226
defendant will become competent to stand trial within one year 227

if the defendant is provided with a course of treatment, ~~the~~ 228
both of the following shall occur: 229

(I) The court shall order the defendant to undergo 230
treatment. 231

(II) The prosecutor shall file an affidavit in the probate 232
court for civil commitment of the defendant pursuant to Chapter 233
5122. or 5123. of the Revised Code alleging that the defendant 234
is a mentally ill person subject to court order or a person with 235
an intellectual disability subject to institutionalization by 236
court order. The court may detain the defendant for ten days 237
pending civil commitment and shall send to the probate court 238
copies of all written reports of the defendant's mental 239
condition prepared pursuant to section 2945.371 of the Revised 240
Code. 241

(ii) If the defendant has been charged with a felony 242
offense and if, after taking into consideration all relevant 243
reports, information, and other evidence, the court finds that 244
the defendant is incompetent to stand trial, but the court is 245
unable at that time to determine whether there is a substantial 246
probability that the defendant will become competent to stand 247
trial within one year if the defendant is provided with a course 248
of treatment, ~~the~~ both of the following shall occur: 249

(I) The court shall order continuing evaluation and 250
treatment of the defendant for a period not to exceed four 251
months to determine whether there is a substantial probability 252
that the defendant will become competent to stand trial within 253
one year if the defendant is provided with a course of 254
treatment. 255

(II) The prosecutor shall file an affidavit in the probate 256

court for civil commitment of the defendant pursuant to Chapter 257
5122. or 5123. of the Revised Code alleging that the defendant 258
is a mentally ill person subject to court order or a person with 259
an intellectual disability subject to institutionalization by 260
court order. The court may detain the defendant for ten days 261
pending civil commitment and shall send to the probate court 262
copies of all written reports of the defendant's mental 263
condition prepared pursuant to section 2945.371 of the Revised 264
Code. 265

(iii) If the defendant has not been charged with a felony 266
offense but has been charged with a misdemeanor offense of 267
violence and if, after taking into consideration all relevant 268
reports, information, and other evidence, the court finds that 269
the defendant is incompetent to stand trial, but the court is 270
unable at that time to determine whether there is a substantial 271
probability that the defendant will become competent to stand 272
trial within the time frame permitted under division (C)(1) of 273
this section, the court may order continuing evaluation and 274
treatment of the defendant for a period not to exceed the 275
maximum period permitted under that division. 276

The prosecutor shall file an affidavit in probate court 277
for civil commitment of the defendant pursuant to Chapter 5122. 278
or 5123. of the Revised Code alleging that the defendant is a 279
mentally ill person subject to court order or a person with an 280
intellectual disability subject to institutionalization by court 281
order. The court may detain the defendant for ten days pending 282
civil commitment and shall send to the probate court copies of 283
all written reports of the defendant's mental condition prepared 284
pursuant to section 2945.371 of the Revised Code. 285

(iv) If the defendant has not been charged with a felony 286

offense or a misdemeanor offense of violence, but has been 287
charged with a misdemeanor offense that is not a misdemeanor 288
offense of violence and if, after taking into consideration all 289
relevant reports, information, and other evidence, the court 290
finds that the defendant is incompetent to stand trial, but the 291
court is unable at that time to determine whether there is a 292
substantial probability that the defendant will become competent 293
to stand trial within the time frame permitted under division 294
(C) (1) of this section, the court shall dismiss the charges and 295
follow the process outlined in division (B) (1) (a) (v) (I) of this 296
section. 297

(v) If the defendant has not been charged with a felony 298
offense or a misdemeanor offense of violence, or if the 299
defendant has been charged with a misdemeanor offense of 300
violence and the prosecutor has recommended the procedures under 301
division (B) (1) (a) (vi) of this section, and if, after taking 302
into consideration all relevant reports, information, and other 303
evidence, the trial court finds that the defendant is 304
incompetent to stand trial, the trial court shall do one of the 305
following: 306

(I) Dismiss the charges pending against the defendant. A 307
dismissal under this division is not a bar to further 308
prosecution based on the same conduct. Upon dismissal of the 309
charges, the trial court shall discharge the defendant ~~unless~~ 310
except as otherwise provided in this division. 311

If the defendant has not been charged with a felony 312
offense or a misdemeanor offense of violence, the court or 313
prosecutor, after consideration of the requirements of section 314
5122.11 of the Revised Code, files may file an affidavit in 315
probate court pursuant to Chapter 5122. or 5123. of the Revised 316

Code alleging that the defendant is a mentally ill person 317
subject to court order or a person with an intellectual 318
disability subject to institutionalization by court order. If 319
the court files an affidavit under this division, the court 320
shall not discharge the defendant. 321

If the defendant has been charged with a misdemeanor 322
offense of violence and the prosecutor has recommended the 323
procedures under division (B) (1) (a) (vi) of this section, the 324
prosecutor shall file an affidavit in probate court for civil 325
commitment of the defendant pursuant to Chapter 5122. or 5123. 326
of the Revised Code alleging that the defendant is a mentally 327
ill person subject to court order or a person with an 328
intellectual disability subject to institutionalization by court 329
order. If the court files an affidavit under this division, the 330
court shall not discharge the defendant. 331

If an affidavit is filed in probate court, the trial court 332
may detain the defendant for ten days pending ~~a hearing in the~~ 333
~~probate court and civil commitment and~~ shall send to the probate 334
court copies of all written reports of the defendant's mental 335
condition that were prepared pursuant to section 2945.371 of the 336
Revised Code. The trial court or prosecutor shall specify in the 337
appropriate space on the affidavit that the defendant is a 338
person described in this subdivision. 339

(II) Order the defendant to undergo outpatient competency 340
restoration treatment at a facility operated or certified by the 341
department of ~~mental health and addiction services~~ behavioral 342
health as being qualified to treat mental illness, at a public 343
or community mental health facility, at a jail that employs or 344
contracts with an individual or entity listed in division (B) (1) 345
(b) (i) of this section to provide treatment or continuing 346

evaluation and treatment at a jail, or in the care of a 347
psychiatrist or other mental health professional. If a defendant 348
who has been released on bail or recognizance refuses to comply 349
with court-ordered outpatient treatment under this division, the 350
court may dismiss the charges pending against the defendant and 351
proceed under division (B) (1) (a) (v) (I) of this section or may 352
amend the conditions of bail or recognizance and order the 353
sheriff to take the defendant into custody and deliver the 354
defendant to a center or facility operated or certified by the 355
department of ~~mental health and addiction services~~ behavioral 356
health for treatment. 357

(III) Order continuing evaluation and treatment for a 358
period not to exceed the maximum period permitted under division 359
(C) of this section if either of the following apply: 360

The defendant has previously been found by a court to be 361
incompetent to stand trial and that, even if the defendant was 362
or had been provided with a course of treatment, there was not a 363
substantial probability that the defendant would have become 364
competent to stand trial. 365

The defendant has previously been found by a court to be 366
incompetent to stand trial and that there was a substantial 367
probability that the defendant would have been competent to 368
stand trial if the defendant was or had been provided with a 369
course of treatment, but at the end of the time period described 370
in division (C) of this section, the defendant was found 371
incompetent to stand trial. 372

(vi) If the defendant has not been charged with a felony 373
offense but has been charged with a misdemeanor offense of 374
violence and after taking into consideration all relevant 375
reports, information, and other evidence, the court finds that 376

the defendant is incompetent to stand trial, the prosecutor in 377
the case may recommend that the court follow the procedures 378
prescribed in division (B) (1) (a) (v) of this section. If the 379
prosecutor does not make such a recommendation, the court shall 380
follow the procedures in division (B) (1) (a) (i) of this section. 381

(b) (i) The court order for the defendant to undergo 382
treatment or continuing evaluation and treatment under division 383
(B) (1) (a) of this section shall specify that the defendant, if 384
determined to require mental health treatment or continuing 385
evaluation and treatment, shall be committed to one of the 386
following: 387

(I) The department of ~~mental health and addiction services~~ 388
behavioral health for treatment or continuing evaluation and 389
treatment at a hospital, facility, or agency, as determined to 390
be clinically appropriate by the department; 391

(II) A facility certified by the department of ~~mental~~ 392
~~health and addiction services~~ behavioral health as being 393
qualified to treat mental illness; 394

(III) A public or community mental health facility; 395

(IV) A jail that employs or contracts with an entity or 396
individual listed in division (B) (1) (b) (i) of this section to 397
provide treatment or continuing evaluation and treatment at a 398
jail; 399

(V) A psychiatrist or another mental health professional 400
for treatment or continuing evaluation and treatment. 401

(ii) Prior to placing the defendant, the department of 402
~~mental health and addiction services~~ behavioral health shall 403
obtain court approval for that placement following a hearing. 404
The court order for the defendant to undergo treatment or 405

continuing evaluation and treatment under division (B)(1)(a) of 406
this section shall specify that the defendant, if determined to 407
require treatment or continuing evaluation and treatment for an 408
intellectual disability, shall receive treatment or continuing 409
evaluation and treatment at an institution or facility operated 410
by the department of developmental disabilities, at a facility 411
certified by the department of developmental disabilities as 412
being qualified to treat intellectual disabilities, at a public 413
or private intellectual disabilities facility, or by a 414
psychiatrist or another intellectual disabilities professional. 415
In any case, the order may restrict the defendant's freedom of 416
movement as the court considers necessary. The prosecutor in the 417
defendant's case shall send to the chief clinical officer of the 418
hospital, facility, or agency where the defendant is placed by 419
the department of ~~mental health and addiction services~~behavioral 420
health, or to the managing officer or director of the 421
institution, facility, or jail, or the person to which the 422
defendant is committed, copies of relevant police reports and 423
other background information that pertains to the defendant and 424
is available to the prosecutor unless the prosecutor determines 425
that the release of any of the information in the police reports 426
or any of the other background information to unauthorized 427
persons would interfere with the effective prosecution of any 428
person or would create a substantial risk of harm to any person. 429

(iii) In determining the place of commitment, the court 430
shall consider the extent to which the person is a danger to the 431
person and to others, the need for security, the availability of 432
housing and supportive services, including outpatient mental 433
health services in the community, and the type of crime involved 434
and shall order the least restrictive alternative available that 435
is consistent with public safety and treatment goals. In 436

weighing these factors, the court shall give preference to 437
protecting public safety and the availability of housing and 438
supportive services. 439

(c) If the defendant is found incompetent to stand trial, 440
if the chief clinical officer of the hospital, facility, or 441
agency where the defendant is placed, or the managing officer or 442
director of the institution, facility, or jail, or the person to 443
which the defendant is committed for treatment or continuing 444
evaluation and treatment under division (B) (1) (b) of this 445
section determines that medication is necessary to restore the 446
defendant's competency to stand trial, and if the defendant 447
lacks the capacity to give informed consent or refuses 448
medication, the chief clinical officer of the hospital, 449
facility, or agency where the defendant is placed, or the 450
managing officer or director of the institution, facility, or 451
jail, or the person to which the defendant is committed for 452
treatment or continuing evaluation and treatment may petition 453
the court for authorization for the involuntary administration 454
of medication. The court shall hold a hearing on the petition 455
within five days of the filing of the petition if the petition 456
was filed in a municipal court or a county court regarding an 457
incompetent defendant charged with a misdemeanor or within ten 458
days of the filing of the petition if the petition was filed in 459
a court of common pleas regarding an incompetent defendant 460
charged with a felony offense. Following the hearing, the court 461
may authorize the involuntary administration of medication or 462
may dismiss the petition. 463

(2) If the court finds that the defendant is incompetent 464
to stand trial and that, even if the defendant is provided with 465
a course of treatment, there is not a substantial probability 466
that the defendant will become competent to stand trial within 467

one year, the court shall order the discharge of the defendant, 468
~~unless upon motion of the~~ except as otherwise provided in this 469
division. 470

(a) The court or prosecutor ~~or on its own~~ may file a 471
motion, ~~for the court either seeks to seek~~ to retain 472
jurisdiction over the defendant pursuant to section 2945.39 of 473
the Revised Code ~~or files~~ . If the court files a motion under 474
this division, the court shall not discharge the defendant. 475

(b) If the defendant has not been charged with a felony 476
offense or a misdemeanor offense of violence, the court or 477
prosecutor may file an affidavit in probate court for civil 478
commitment of the defendant pursuant to Chapter 5122. or 5123. 479
of the Revised Code alleging that the defendant is a mentally 480
ill person subject to court order or a person with an 481
intellectual disability subject to institutionalization by court 482
order. If the court files an affidavit under this division, the 483
court shall not discharge the defendant. 484

(c) If the defendant has been charged with a felony 485
offense or a misdemeanor offense of violence, the prosecutor 486
shall file an affidavit in the probate court for the civil 487
commitment of the defendant pursuant to Chapter 5122. or 5123. 488
of the Revised Code alleging that the defendant is a mentally 489
ill person ~~with a mental illness~~ subject to court order or a 490
person with an intellectual disability subject to 491
institutionalization by court order. If ~~an~~ the court files an 492
affidavit under this division, the court shall not discharge the 493
defendant. 494

(d) If an affidavit is filed in the probate court under 495
division (B) (2) (b) or (c) of this section, the trial court may 496
detain the defendant for ten days pending civil commitment and 497

shall send to the probate court copies of all written reports of 498
the defendant's mental condition that were prepared pursuant to 499
section 2945.371 of the Revised Code. 500

~~The~~ (e) If an affidavit is filed in the probate court 501
under division (B) (2) (b) or (c) of this section, the trial court 502
may issue the temporary order of detention that a probate court 503
may issue under section 5122.11 or 5123.71 of the Revised Code, 504
to remain in effect until the probable cause or initial hearing 505
in the probate court. Further proceedings in the probate court 506
are civil proceedings governed by Chapter 5122. or 5123. of the 507
Revised Code. 508

(C) No defendant shall be required to undergo treatment, 509
including any continuing evaluation and treatment, under 510
division (B) (1) of this section for longer than whichever of the 511
following periods is applicable: 512

(1) One year, if the most serious offense with which the 513
defendant is charged is one of the following offenses: 514

(a) Aggravated murder, murder, or an offense of violence 515
for which a sentence of death or life imprisonment may be 516
imposed; 517

(b) An offense of violence that is a felony of the first 518
or second degree; 519

(c) A conspiracy to commit, an attempt to commit, or 520
complicity in the commission of an offense described in division 521
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 522
complicity is a felony of the first or second degree. 523

(2) Six months, if the most serious offense with which the 524
defendant is charged is a felony other than a felony described 525
in division (C) (1) of this section. 526

~~(3) Sixty days, if the most serious offense with which the~~ 527
~~defendant is charged is a~~, or a misdemeanor of the first or, 528
~~second degree;~~ 529

~~(4) Thirty days, if the most serious offense with which~~ 530
~~the defendant is charged is a misdemeanor of the~~, third, or 531
fourth degree, a minor misdemeanor, or an unclassified 532
misdemeanor. 533

(D) Any defendant who is committed pursuant to this 534
section shall not voluntarily admit the defendant or be 535
voluntarily admitted to a hospital or institution pursuant to 536
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 537
Code. 538

(E) Except as otherwise provided in this division, a 539
defendant who is charged with an offense and is committed by the 540
court under this section to the department of ~~mental health and~~ 541
~~addiction services~~ behavioral health or is committed to an 542
institution or facility for the treatment of intellectual 543
disabilities shall not be granted unsupervised on-grounds 544
movement, supervised off-grounds movement, or nonsecured status 545
except in accordance with the court order. The court may grant a 546
defendant supervised off-grounds movement to obtain medical 547
treatment or specialized habilitation treatment services if the 548
person who supervises the treatment or the continuing evaluation 549
and treatment of the defendant ordered under division (B) (1) (a) 550
of this section informs the court that the treatment or 551
continuing evaluation and treatment cannot be provided at the 552
hospital or facility where the defendant is placed by the 553
department of ~~mental health and addiction services~~ behavioral 554
health or the institution, facility, or jail to which the 555
defendant is committed. The chief clinical officer of the 556

hospital or facility where the defendant is placed by the 557
department of ~~mental health and addiction services~~ behavioral 558
health or the managing officer or director of the institution, 559
facility, or jail to which the defendant is committed, or a 560
designee of any of those persons, may grant a defendant movement 561
to a medical facility for an emergency medical situation with 562
appropriate supervision to ensure the safety of the defendant, 563
staff, and community during that emergency medical situation. 564
The chief clinical officer of the hospital or facility where the 565
defendant is placed by the department of ~~mental health and~~ 566
~~addiction services~~ behavioral health or the managing officer or 567
director of the institution, facility, or jail to which the 568
defendant is committed shall notify the court within twenty-four 569
hours of the defendant's movement to the medical facility for an 570
emergency medical situation under this division. 571

(F) The person who supervises the treatment or continuing 572
evaluation and treatment of a defendant ordered to undergo 573
treatment or continuing evaluation and treatment under division 574
(B) (1) (a) of this section shall file a written report with the 575
court at the following times: 576

(1) Whenever the person believes the defendant is capable 577
of understanding the nature and objective of the proceedings 578
against the defendant and of assisting in the defendant's 579
defense; 580

(2) For a felony offense, fourteen days before expiration 581
of the maximum time for treatment as specified in division (C) 582
of this section and fourteen days before the expiration of the 583
maximum time for continuing evaluation and treatment as 584
specified in division (B) (1) (a) of this section, and, for a 585
misdemeanor offense, ten days before the expiration of the 586

maximum time for treatment, as specified in division (C) of this 587
section; 588

(3) At a minimum, after each six months of treatment; 589

(4) Whenever the person who supervises the treatment or 590
continuing evaluation and treatment of a defendant ordered under 591
division (B)(1)(a) of this section believes that there is not a 592
substantial probability that the defendant will become capable 593
of understanding the nature and objective of the proceedings 594
against the defendant or of assisting in the defendant's defense 595
even if the defendant is provided with a course of treatment. 596

(G) A report under division (F) of this section shall 597
contain the examiner's findings, the facts in reasonable detail 598
on which the findings are based, and the examiner's opinion as 599
to the defendant's capability of understanding the nature and 600
objective of the proceedings against the defendant and of 601
assisting in the defendant's defense. If, in the examiner's 602
opinion, the defendant remains incapable of understanding the 603
nature and objective of the proceedings against the defendant 604
and of assisting in the defendant's defense and there is a 605
substantial probability that the defendant will become capable 606
of understanding the nature and objective of the proceedings 607
against the defendant and of assisting in the defendant's 608
defense if the defendant is provided with a course of treatment, 609
if in the examiner's opinion the defendant continues to have a 610
mental illness or an intellectual disability, and if the maximum 611
time for treatment as specified in division (C) of this section 612
has not expired, the report also shall contain the examiner's 613
recommendation as to the least restrictive placement or 614
commitment alternative that is consistent with the defendant's 615
treatment needs for restoration to competency and with the 616

safety of the community. The court shall provide copies of the 617
report to the prosecutor and defense counsel. 618

(H) If a defendant is committed pursuant to division (B) 619
(1) of this section, within ten days after the treating 620
physician of the defendant or the examiner of the defendant who 621
is employed or retained by the treating facility advises that 622
there is not a substantial probability that the defendant will 623
become capable of understanding the nature and objective of the 624
proceedings against the defendant or of assisting in the 625
defendant's defense even if the defendant is provided with a 626
course of treatment, within ten days after the expiration of the 627
maximum time for treatment as specified in division (C) of this 628
section, within ten days after the expiration of the maximum 629
time for continuing evaluation and treatment as specified in 630
division (B)(1)(a) of this section, within thirty days after a 631
defendant's request for a hearing that is made after six months 632
of treatment, or within thirty days after being advised by the 633
treating physician or examiner that the defendant is competent 634
to stand trial, whichever is the earliest, the court shall 635
conduct another hearing to determine if the defendant is 636
competent to stand trial and shall do whichever of the following 637
is applicable: 638

(1) If the court finds that the defendant is competent to 639
stand trial, the defendant shall be proceeded against as 640
provided by law. 641

(2) If the court finds that the defendant is incompetent 642
to stand trial, but that there is a substantial probability that 643
the defendant will become competent to stand trial if the 644
defendant is provided with a course of treatment, and the 645
maximum time for treatment as specified in division (C) of this 646

section has not expired, the court, after consideration of the
examiner's recommendation, shall order that treatment be
continued, may change the facility or location at which the
treatment is to be continued, and shall specify whether the
treatment is to be continued at the same or a different facility
or location.

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

~~(4)~~ (4) (a) If the court finds that the defendant is
incompetent to stand trial, if the most serious offense with
which the defendant is charged is a misdemeanor or a felony
other than a felony listed in division (C)(1) of this section,
and if the court finds that there is not a substantial
probability that the defendant will become competent to stand
trial even if the defendant is provided with a course of
treatment, or if the maximum time for treatment relative to that
offense as specified in division (C) of this section has
expired, the court shall dismiss the indictment, information, or
complaint against the defendant. A dismissal under this division
is not a bar to further prosecution based on the same conduct.
The court shall discharge the defendant ~~unless~~ except as
otherwise provided in this division.

(i) If the defendant has not been charged with a felony 677
offense or a misdemeanor offense of violence, the court or 678
prosecutor ~~files~~ may file an affidavit in probate court for 679
civil commitment pursuant to Chapter 5122. or 5123. of the 680
Revised Code alleging the defendant is a mentally ill person 681
subject to court order or a person with an intellectual 682
disability subject to institutionalization by court order. If 683
the court files an affidavit under this division, the court 684
shall not discharge the defendant. 685

(ii) If the defendant has been charged with a felony 686
offense or a misdemeanor offense of violence, the prosecutor 687
shall file an affidavit in probate court for civil commitment of 688
the defendant pursuant to Chapter 5122. or 5123. of the Revised 689
Code alleging that the defendant is a mentally ill person 690
subject to court order or a person with an intellectual 691
disability subject to institutionalization by court order. If 692
the court files an affidavit under this division, the court 693
shall not discharge the defendant. 694

(iii) If an affidavit for civil commitment is filed under 695
division (H) (4) (a) (i) or (ii) of this section, the trial court 696
may detain the defendant for ten days pending civil commitment 697
and shall send to the probate court copies of all written 698
reports of the defendant's mental condition prepared pursuant to 699
section 2945.371 of the Revised Code. 700

(b) All of the following provisions apply to persons 701
charged with a misdemeanor or a felony other than a felony 702
listed in division (C) (1) of this section who are committed by 703
the probate court subsequent to the court's or prosecutor's 704
filing of an affidavit for civil commitment under authority of 705
this division: 706

~~(a)~~(i) The chief clinical officer of the entity, hospital, 707
or facility, the managing officer or director of the 708
institution, facility, or jail, or the person to which the 709
defendant is committed or admitted shall do all of the 710
following: 711

~~(i)~~(I) Notify the prosecutor, in writing, of the discharge 712
of the defendant, send the notice at least ten days prior to the 713
discharge unless the discharge is by the probate court, and 714
state in the notice the date on which the defendant will be 715
discharged; 716

~~(ii)~~(II) Notify the prosecutor, in writing, when the 717
defendant is absent without leave or is granted unsupervised, 718
off-grounds movement, and send this notice promptly after the 719
discovery of the absence without leave or prior to the granting 720
of the unsupervised, off-grounds movement, whichever is 721
applicable; 722

~~(iii)~~(III) Notify the prosecutor, in writing, of the 723
change of the defendant's commitment or admission to voluntary 724
status, send the notice promptly upon learning of the change to 725
voluntary status, and state in the notice the date on which the 726
defendant was committed or admitted on a voluntary status. 727

~~(b)~~(ii) Upon receiving notice that the defendant will be 728
granted unsupervised, off-grounds movement, the prosecutor 729
either shall re-indict the defendant or promptly notify the 730
court that the prosecutor does not intend to prosecute the 731
charges against the defendant. 732

(I) If a defendant is convicted of a crime and sentenced 733
to a jail, the defendant's sentence shall be reduced by the 734
total number of days the defendant is confined for evaluation to 735

determine the defendant's competence to stand trial or treatment 736
under this section and sections 2945.37 and 2945.371 of the 737
Revised Code or by the total number of days the defendant is 738
confined for evaluation to determine the defendant's mental 739
condition at the time of the offense charged. 740

Sec. 2945.39. (A) If a defendant who is charged with an 741
offense described in division ~~(C)(1)~~ (C) of section 2945.38 of 742
the Revised Code is found incompetent to stand trial, after the 743
expiration of the maximum time for treatment as specified in 744
division (C) of that section or after the court finds that there 745
is not a substantial probability that the defendant will become 746
competent to stand trial even if the defendant is provided with 747
a course of treatment, one of the following applies: 748

~~(1) The~~ (1) (a) If the defendant is not charged with a 749
felony offense or a misdemeanor offense of violence, the court 750
or the prosecutor may file an affidavit in probate court for 751
civil commitment of the defendant in the manner provided in 752
pursuant to Chapter 5122. or 5123. of the Revised Code alleging 753
that the defendant is a mentally ill person subject to court 754
order or a person with an intellectual disability subject to 755
institutionalization by court order. 756

(b) If the defendant is charged with a felony offense or a 757
misdemeanor offense of violence, the prosecutor shall file an 758
affidavit in the probate court for civil commitment of the 759
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 760
alleging that the defendant is a mentally ill person subject to 761
court order or a person with an intellectual disability subject 762
to institutionalization by court order. 763

(c) If the court or prosecutor files an affidavit for 764
civil commitment under division (A) (1) (a) of this section, the 765

court may detain the defendant for ten days pending civil 766
commitment and shall send to the probate court copies of all 767
written reports of the defendant's mental condition prepared 768
pursuant to section 2945.371 of the Revised Code. If the probate 769
court commits the defendant subsequent to the court's or 770
prosecutor's filing of an affidavit for civil commitment, the 771
chief clinical officer of the entity, hospital, or facility, the 772
managing officer of the institution, the director of the 773
program, or the person to which the defendant is committed or 774
admitted shall send to the prosecutor the notices described in 775
divisions ~~(H) (4) (a) (i)~~ (H) (4) (b) (i) (I) to ~~(iii)~~ (III) of section 776
2945.38 of the Revised Code within the periods of time and under 777
the circumstances specified in those divisions. 778

(2) On the motion of the prosecutor or on its own motion, 779
the court may retain jurisdiction over the defendant if, at a 780
hearing, the court finds both of the following by clear and 781
convincing evidence: 782

(a) The defendant committed the offense with which the 783
defendant is charged. 784

(b) The defendant is a person with a mental illness 785
subject to court order or a person with an intellectual 786
disability subject to institutionalization by court order. 787

(B) In making its determination under division (A) (2) of 788
this section as to whether to retain jurisdiction over the 789
defendant, the court may consider all relevant evidence, 790
including, but not limited to, any relevant psychiatric, 791
psychological, or medical testimony or reports, the acts 792
constituting the offense charged, and any history of the 793
defendant that is relevant to the defendant's ability to conform 794
to the law. 795

(C) If the court conducts a hearing as described in 796
division (A) (2) of this section and if the court does not make 797
both findings described in divisions (A) (2) (a) and (b) of this 798
section by clear and convincing evidence, the court shall 799
dismiss the indictment, information, or complaint against the 800
defendant. Upon the dismissal, the court shall discharge the 801
defendant ~~unless the~~ except as otherwise provided in this 802
division. 803

(1) If the defendant is not charged with a felony offense 804
or a misdemeanor offense of violence, the court or prosecutor 805
~~files may file~~ an affidavit in probate court for civil 806
commitment of the defendant pursuant to Chapter 5122. or 5123. 807
of the Revised Code alleging that the defendant is a mentally 808
ill person subject to court order or a person with an 809
intellectual disability subject to institutionalization by court 810
order. If the court files an affidavit under this division, the 811
court shall not discharge the defendant. 812

(2) If the defendant is charged with a felony offense or a 813
misdemeanor offense of violence, the prosecutor shall file an 814
affidavit in probate court for civil commitment of the defendant 815
pursuant to Chapter 5122. or 5123. of the Revised Code alleging 816
that the defendant is a mentally ill person subject to court 817
order or a person with an intellectual disability subject to 818
institutionalization by court order. If the court files an 819
affidavit under this division, the court shall not discharge the 820
defendant. 821

(3) If the court or prosecutor files an affidavit for 822
civil commitment under division (C) (1) or (2) of this section, 823
the court may order that the defendant be detained for up to ten 824
days pending the civil commitment and shall send to the probate 825

court copies of all written reports of the defendant's mental 826
condition prepared pursuant to section 2945.371 of the Revised 827
Code. If the probate court commits the defendant subsequent to 828
the court's or prosecutor's filing of an affidavit for civil 829
commitment, the chief clinical officer of the entity, hospital, 830
or facility, the managing officer of the institution, the 831
director of the program, or the person to which the defendant is 832
committed or admitted shall send to the prosecutor the notices 833
described in divisions ~~(H) (4) (a) (i)~~ (H) (4) (b) (i) (I) to ~~(iii)~~ (III) 834
of section 2945.38 of the Revised Code within the periods of 835
time and under the circumstances specified in those divisions. A 836
dismissal of charges under this division is not a bar to further 837
criminal proceedings based on the same conduct. 838

(D) (1) If the court conducts a hearing as described in 839
division (A) (2) of this section and if the court makes the 840
findings described in divisions (A) (2) (a) and (b) of this 841
section by clear and convincing evidence, the court shall commit 842
the defendant, if determined to require mental health treatment, 843
either to the department of ~~mental health and addiction services~~ 844
behavioral health for treatment at a hospital, facility, or 845
agency as determined clinically appropriate by the department of 846
~~mental health and addiction services~~ behavioral health or to 847
another medical or psychiatric facility, as appropriate. Prior 848
to placing the defendant, the department of ~~mental health and~~ 849
~~addiction services~~ behavioral health shall obtain court approval 850
for that placement. If the court conducts such a hearing and if 851
it makes those findings by clear and convincing evidence, the 852
court shall commit the defendant, if determined to require 853
treatment for an intellectual disability, to a facility operated 854
by the department of developmental disabilities, or another 855
facility, as appropriate. In determining the place of 856

commitment, the court shall consider the extent to which the 857
person is a danger to the person and to others, the need for 858
security, and the type of crime involved and shall order the 859
least restrictive alternative available that is consistent with 860
public safety and the welfare of the defendant. In weighing 861
these factors, the court shall give preference to protecting 862
public safety. 863

(2) If a court makes a commitment of a defendant under 864
division (D)(1) of this section, the prosecutor shall send to 865
the hospital, facility, or agency where the defendant is placed 866
by the department of ~~mental health and addiction services~~ 867
behavioral health or to the defendant's place of commitment all 868
reports of the defendant's current mental condition and, except 869
as otherwise provided in this division, any other relevant 870
information, including, but not limited to, a transcript of the 871
hearing held pursuant to division (A)(2) of this section, copies 872
of relevant police reports, and copies of any prior arrest and 873
conviction records that pertain to the defendant and that the 874
prosecutor possesses. The prosecutor shall send the reports of 875
the defendant's current mental condition in every case of 876
commitment, and, unless the prosecutor determines that the 877
release of any of the other relevant information to unauthorized 878
persons would interfere with the effective prosecution of any 879
person or would create a substantial risk of harm to any person, 880
the prosecutor also shall send the other relevant information. 881
Upon admission of a defendant committed under division (D)(1) of 882
this section, the place of commitment shall send to the board of 883
alcohol, drug addiction, and mental health services or the 884
community mental health board serving the county in which the 885
charges against the defendant were filed a copy of all reports 886
of the defendant's current mental condition and a copy of the 887

other relevant information provided by the prosecutor under this 888
division, including, if provided, a transcript of the hearing 889
held pursuant to division (A) (2) of this section, the relevant 890
police reports, and the prior arrest and conviction records that 891
pertain to the defendant and that the prosecutor possesses. 892

(3) If a court makes a commitment under division (D) (1) of 893
this section, all further proceedings shall be in accordance 894
with sections 2945.401 and 2945.402 of the Revised Code. 895

Sec. 2945.401. (A) A defendant found incompetent to stand 896
trial and committed pursuant to section 2945.39 of the Revised 897
Code or a person found not guilty by reason of insanity and 898
committed pursuant to section 2945.40 of the Revised Code shall 899
remain subject to the jurisdiction of the trial court pursuant 900
to that commitment, and to the provisions of this section, until 901
the final termination of the commitment as described in division 902
(J) (1) of this section. If the jurisdiction is terminated under 903
this division because of the final termination of the commitment 904
resulting from the expiration of the maximum prison term or term 905
of imprisonment described in division (J) (1) (b) of this section, 906
the court or prosecutor may file an affidavit for the civil 907
commitment of the defendant or person pursuant to Chapter 5122. 908
or 5123. of the Revised Code. 909

(B) A hearing conducted under any provision of sections 910
2945.37 to 2945.402 of the Revised Code shall not be conducted 911
in accordance with Chapters 5122. and 5123. of the Revised Code. 912
Any person who is committed pursuant to section 2945.39 or 913
2945.40 of the Revised Code shall not voluntarily admit the 914
person or be voluntarily admitted to a hospital or institution 915
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 916
Revised Code. All other provisions of Chapters 5122. and 5123. 917

of the Revised Code regarding hospitalization or 918
institutionalization shall apply to the extent they are not in 919
conflict with this chapter. The definition of a person with a 920
mental illness subject to court order as defined in section 921
2945.37 of the Revised Code shall be applied in the same manner 922
as the definition of a person with a mental illness subject to 923
court order as defined in section 5122.01 of the Revised Code. A 924
commitment under section 2945.39 or 2945.40 of the Revised Code 925
shall not be terminated and the conditions of the commitment 926
shall not be changed except as otherwise provided in division 927
(D) (2) of this section with respect to a person with an 928
intellectual disability subject to institutionalization by court 929
order or except by order of the trial court. 930

(C) The department of ~~mental health and addiction services~~ 931
behavioral health or the institution, facility, or program to 932
which a defendant or person has been committed under section 933
2945.39 or 2945.40 of the Revised Code shall report in writing 934
to the trial court, at the times specified in this division, as 935
to whether the defendant or person remains a person with a 936
mental illness subject to court order or a person with an 937
intellectual disability subject to institutionalization by court 938
order and, in the case of a defendant committed under section 939
2945.39 of the Revised Code, as to whether the defendant remains 940
incompetent to stand trial. The department, institution, 941
facility, or program shall make the reports after the initial 942
six months of treatment and every two years after the initial 943
report is made. The trial court shall provide copies of the 944
reports to the prosecutor and to the counsel for the defendant 945
or person. Within thirty days after its receipt pursuant to this 946
division of a report from the department, institution, facility, 947
or program, the trial court shall hold a hearing on the 948

continued commitment of the defendant or person or on any 949
changes in the conditions of the commitment of the defendant or 950
person. The defendant or person may request a change in the 951
conditions of confinement, and the trial court shall conduct a 952
hearing on that request if six months or more have elapsed since 953
the most recent hearing was conducted under this section. 954

(D) (1) Except as otherwise provided in division (D) (2) of 955
this section, when a defendant or person has been committed 956
under section 2945.39 or 2945.40 of the Revised Code, at any 957
time after evaluating the risks to public safety and the welfare 958
of the defendant or person, the designee of the department of 959
~~mental health and addiction services~~ behavioral health or the 960
managing officer of the institution or director of the facility 961
or program to which the defendant or person is committed may 962
recommend a termination of the defendant's or person's 963
commitment or a change in the conditions of the defendant's or 964
person's commitment. 965

Except as otherwise provided in division (D) (2) of this 966
section, if the designee of the department of ~~mental health and~~ 967
~~addiction services~~ behavioral health recommends on-grounds 968
unsupervised movement, off-grounds supervised movement, or 969
nonsecured status for the defendant or person or termination of 970
the defendant's or person's commitment, the following provisions 971
apply: 972

(a) If the department's designee recommends on-grounds 973
unsupervised movement or off-grounds supervised movement, the 974
department's designee shall file with the trial court an 975
application for approval of the movement and shall send a copy 976
of the application to the prosecutor. Within fifteen days after 977
receiving the application, the prosecutor may request a hearing 978

on the application and, if a hearing is requested, shall so 979
inform the department's designee. If the prosecutor does not 980
request a hearing within the fifteen-day period, the trial court 981
shall approve the application by entering its order approving 982
the requested movement or, within five days after the expiration 983
of the fifteen-day period, shall set a date for a hearing on the 984
application. If the prosecutor requests a hearing on the 985
application within the fifteen-day period, the trial court shall 986
hold a hearing on the application within thirty days after the 987
hearing is requested. If the trial court, within five days after 988
the expiration of the fifteen-day period, sets a date for a 989
hearing on the application, the trial court shall hold the 990
hearing within thirty days after setting the hearing date. At 991
least fifteen days before any hearing is held under this 992
division, the trial court shall give the prosecutor written 993
notice of the date, time, and place of the hearing. At the 994
conclusion of each hearing conducted under this division, the 995
trial court either shall approve or disapprove the application 996
and shall enter its order accordingly. 997

(b) If the department's designee recommends termination of 998
the defendant's or person's commitment at any time or if the 999
department's designee recommends the first of any nonsecured 1000
status for the defendant or person, the department's designee 1001
shall send written notice of this recommendation to the trial 1002
court and to the local forensic center. The local forensic 1003
center shall evaluate the committed defendant or person and, 1004
within thirty days after its receipt of the written notice, 1005
shall submit to the trial court and the department's designee a 1006
written report of the evaluation. The trial court shall provide 1007
a copy of the department's designee's written notice and of the 1008
local forensic center's written report to the prosecutor and to 1009

the counsel for the defendant or person. Upon the local forensic
center's submission of the report to the trial court and the
department's designee, all of the following apply:

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

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

(iii) If the forensic center disagrees with the
recommendation of the department's designee and the department's
designee proceeds with, or modifies and proceeds with, the
recommendation or if the forensic center agrees with the
recommendation of the department's designee, the department's
designee shall work with community mental health services
providers, programs, facilities, or boards of alcohol, drug
addiction, and mental health services or community mental health
boards to develop a plan to implement the recommendation. If the
defendant or person is on medication, the plan shall include,
but shall not be limited to, a system to monitor the defendant's
or person's compliance with the prescribed medication treatment

plan. The system shall include a schedule that clearly states 1040
when the defendant or person shall report for a medication 1041
compliance check. The medication compliance checks shall be 1042
based upon the effective duration of the prescribed medication, 1043
taking into account the route by which it is taken, and shall be 1044
scheduled at intervals sufficiently close together to detect a 1045
potential increase in mental illness symptoms that the 1046
medication is intended to prevent. 1047

The department's designee, after consultation with the 1048
board of alcohol, drug addiction, and mental health services or 1049
the community mental health board serving the area, shall send 1050
the recommendation and plan developed under division (D) (1) (b) 1051
(iii) of this section, in writing, to the trial court, the 1052
prosecutor, and the counsel for the committed defendant or 1053
person. The trial court shall conduct a hearing on the 1054
recommendation and plan developed under division (D) (1) (b) (iii) 1055
of this section. Divisions (D) (1) (c) and (d) and (E) to (J) of 1056
this section apply regarding the hearing. 1057

(c) If the department's designee's recommendation is for 1058
nonsecured status or termination of commitment, the prosecutor 1059
may obtain an independent expert evaluation of the defendant's 1060
or person's mental condition, and the trial court may continue 1061
the hearing on the recommendation for a period of not more than 1062
thirty days to permit time for the evaluation. 1063

The prosecutor may introduce the evaluation report or 1064
present other evidence at the hearing in accordance with the 1065
Rules of Evidence. 1066

(d) The trial court shall schedule the hearing on a 1067
department's designee's recommendation for nonsecured status or 1068
termination of commitment and shall give reasonable notice to 1069

the prosecutor and the counsel for the defendant or person. 1070
Unless continued for independent evaluation at the prosecutor's 1071
request or for other good cause, the hearing shall be held 1072
within thirty days after the trial court's receipt of the 1073
recommendation and plan. 1074

(2) (a) Division (D) (1) of this section does not apply to 1075
on-grounds unsupervised movement of a defendant or person who 1076
has been committed under section 2945.39 or 2945.40 of the 1077
Revised Code, who is a person with an intellectual disability 1078
subject to institutionalization by court order, and who is being 1079
provided residential habilitation, care, and treatment in a 1080
facility operated by the department of developmental 1081
disabilities. 1082

(b) If, pursuant to section 2945.39 of the Revised Code, 1083
the trial court commits a defendant who is found incompetent to 1084
stand trial and who is a person with an intellectual disability 1085
subject to institutionalization by court order, if the defendant 1086
is being provided residential habilitation, care, and treatment 1087
in a facility operated by the department of developmental 1088
disabilities, if an individual who is conducting a survey for 1089
the department of health to determine the facility's compliance 1090
with the certification requirements of the medicaid program 1091
cites the defendant's receipt of the residential habilitation, 1092
care, and treatment in the facility as being inappropriate under 1093
the certification requirements, if the defendant's receipt of 1094
the residential habilitation, care, and treatment in the 1095
facility potentially jeopardizes the facility's continued 1096
receipt of federal medicaid moneys, and if as a result of the 1097
citation the chief clinical officer of the facility determines 1098
that the conditions of the defendant's commitment should be 1099
changed, the department of developmental disabilities may cause 1100

the defendant to be removed from the particular facility and, 1101
after evaluating the risks to public safety and the welfare of 1102
the defendant and after determining whether another type of 1103
placement is consistent with the certification requirements, may 1104
place the defendant in another facility that the department 1105
selects as an appropriate facility for the defendant's continued 1106
receipt of residential habilitation, care, and treatment and 1107
that is a no less secure setting than the facility in which the 1108
defendant had been placed at the time of the citation. Within 1109
three days after the defendant's removal and alternative 1110
placement under the circumstances described in division (D) (2) 1111
(b) of this section, the department of developmental 1112
disabilities shall notify the trial court and the prosecutor in 1113
writing of the removal and alternative placement. 1114

The trial court shall set a date for a hearing on the 1115
removal and alternative placement, and the hearing shall be held 1116
within twenty-one days after the trial court's receipt of the 1117
notice from the department of developmental disabilities. At 1118
least ten days before the hearing is held, the trial court shall 1119
give the prosecutor, the department of developmental 1120
disabilities, and the counsel for the defendant written notice 1121
of the date, time, and place of the hearing. At the hearing, the 1122
trial court shall consider the citation issued by the individual 1123
who conducted the survey for the department of health to be 1124
prima-facie evidence of the fact that the defendant's commitment 1125
to the particular facility was inappropriate under the 1126
certification requirements of the medicaid program and 1127
potentially jeopardizes the particular facility's continued 1128
receipt of federal medicaid moneys. At the conclusion of the 1129
hearing, the trial court may approve or disapprove the 1130
defendant's removal and alternative placement. If the trial 1131

court approves the defendant's removal and alternative 1132
placement, the department of developmental disabilities may 1133
continue the defendant's alternative placement. If the trial 1134
court disapproves the defendant's removal and alternative 1135
placement, it shall enter an order modifying the defendant's 1136
removal and alternative placement, but that order shall not 1137
require the department of developmental disabilities to replace 1138
the defendant for purposes of continued residential 1139
habilitation, care, and treatment in the facility associated 1140
with the citation issued by the individual who conducted the 1141
survey for the department of health. 1142

(E) In making a determination under this section regarding 1143
nonsecured status or termination of commitment, the trial court 1144
shall consider all relevant factors, including, but not limited 1145
to, all of the following: 1146

(1) Whether, in the trial court's view, the defendant or 1147
person currently represents a substantial risk of physical harm 1148
to the defendant or person or others; 1149

(2) Psychiatric and medical testimony as to the current 1150
mental and physical condition of the defendant or person; 1151

(3) Whether the defendant or person has insight into the 1152
defendant's or person's condition so that the defendant or 1153
person will continue treatment as prescribed or seek 1154
professional assistance as needed; 1155

(4) The grounds upon which the state relies for the 1156
proposed commitment; 1157

(5) Any past history that is relevant to establish the 1158
defendant's or person's degree of conformity to the laws, rules, 1159
regulations, and values of society; 1160

(6) If there is evidence that the defendant's or person's 1161
mental illness is in a state of remission, the medically 1162
suggested cause and degree of the remission and the probability 1163
that the defendant or person will continue treatment to maintain 1164
the remissive state of the defendant's or person's illness 1165
should the defendant's or person's commitment conditions be 1166
altered. 1167

(F) At any hearing held pursuant to division (C) or (D) (1) 1168
or (2) of this section, the defendant or the person shall have 1169
all the rights of a defendant or person at a commitment hearing 1170
as described in section 2945.40 of the Revised Code. 1171

(G) In a hearing held pursuant to division (C) or (D) (1) 1172
of this section, the prosecutor has the burden of proof as 1173
follows: 1174

(1) For a recommendation of termination of commitment, to 1175
show by clear and convincing evidence that the defendant or 1176
person remains a person with a mental illness subject to court 1177
order or a person with an intellectual disability subject to 1178
institutionalization by court order; 1179

(2) For a recommendation for a change in the conditions of 1180
the commitment to a less restrictive status, to show by clear 1181
and convincing evidence that the proposed change represents a 1182
threat to public safety or a threat to the safety of any person. 1183

(H) In a hearing held pursuant to division (C) or (D) (1) 1184
or (2) of this section, the prosecutor shall represent the state 1185
or the public interest. 1186

(I) At the conclusion of a hearing conducted under 1187
division (D) (1) of this section regarding a recommendation from 1188
the designee of the department of ~~mental health and addiction~~ 1189

~~services~~behavioral health, managing officer of the institution, 1190
or director of a facility or program, the trial court may 1191
approve, disapprove, or modify the recommendation and shall 1192
enter an order accordingly. 1193

(J) (1) A defendant or person who has been committed 1194
pursuant to section 2945.39 or 2945.40 of the Revised Code 1195
continues to be under the jurisdiction of the trial court until 1196
the final termination of the commitment. For purposes of 1197
division (J) of this section, the final termination of a 1198
commitment occurs upon the earlier of one of the following: 1199

(a) The defendant or person no longer is a person with a 1200
mental illness subject to court order or a person with an 1201
intellectual disability subject to institutionalization by court 1202
order, as determined by the trial court; 1203

(b) The expiration of the maximum prison term or term of 1204
imprisonment that the defendant or person could have received if 1205
the defendant or person had been convicted of the most serious 1206
offense with which the defendant or person is charged or in 1207
relation to which the defendant or person was found not guilty 1208
by reason of insanity or six months, whichever is longer; 1209

(c) The trial court enters an order terminating the 1210
commitment under the circumstances described in division (J) (2) 1211
(a) (ii) of this section. 1212

(2) (a) If a defendant is found incompetent to stand trial 1213
and committed pursuant to section 2945.39 of the Revised Code, 1214
if neither of the circumstances described in divisions (J) (1) (a) 1215
and (b) of this section applies to that defendant, and if a 1216
report filed with the trial court pursuant to division (C) of 1217
this section indicates that the defendant presently is competent 1218

to stand trial or if, at any other time during the period of the 1219
defendant's commitment, the prosecutor, the counsel for the 1220
defendant, or the designee of the department of ~~mental health~~ 1221
~~and addiction services~~ behavioral health or the managing officer 1222
of the institution or director of the facility or program to 1223
which the defendant is committed files an application with the 1224
trial court alleging that the defendant presently is competent 1225
to stand trial and requesting a hearing on the competency issue 1226
or the trial court otherwise has reasonable cause to believe 1227
that the defendant presently is competent to stand trial and 1228
determines on its own motion to hold a hearing on the competency 1229
issue, the trial court shall schedule a hearing on the 1230
competency of the defendant to stand trial, shall give the 1231
prosecutor, the counsel for the defendant, and the department's 1232
designee or the managing officer of the institution or the 1233
director of the facility to which the defendant is committed 1234
notice of the date, time, and place of the hearing at least 1235
fifteen days before the hearing, and shall conduct the hearing 1236
within thirty days of the filing of the application or of its 1237
own motion. If, at the conclusion of the hearing, the trial 1238
court determines that the defendant presently is capable of 1239
understanding the nature and objective of the proceedings 1240
against the defendant and of assisting in the defendant's 1241
defense, the trial court shall order that the defendant is 1242
competent to stand trial and shall be proceeded against as 1243
provided by law with respect to the applicable offenses 1244
described in division ~~(C) (1)~~ (C) of section 2945.38 of the 1245
Revised Code and shall enter whichever of the following 1246
additional orders is appropriate: 1247

(i) If the trial court determines that the defendant 1248
remains a person with a mental illness subject to court order or 1249

a person with an intellectual disability subject to 1250
institutionalization by court order, the trial court shall order 1251
that the defendant's commitment to the department of ~~mental~~ 1252
~~health and addiction services~~ behavioral health or to an 1253
institution, facility, or program for the treatment of 1254
intellectual disabilities be continued during the pendency of 1255
the trial on the applicable offenses described in division ~~(C)~~ 1256
~~(1)~~ (C) of section 2945.38 of the Revised Code. 1257

(ii) If the trial court determines that the defendant no 1258
longer is a person with a mental illness subject to court order 1259
or a person with an intellectual disability subject to 1260
institutionalization by court order, the trial court shall order 1261
that the defendant's commitment to the department of ~~mental~~ 1262
~~health and addiction services~~ behavioral health or to an 1263
institution, facility, or program for the treatment of 1264
intellectual disabilities shall not be continued during the 1265
pendency of the trial on the applicable offenses described in 1266
division ~~(C)~~ ~~(1)~~ (C) of section 2945.38 of the Revised Code. This 1267
order shall be a final termination of the commitment for 1268
purposes of division (J) (1) (c) of this section. 1269

(b) If, at the conclusion of the hearing described in 1270
division (J) (2) (a) of this section, the trial court determines 1271
that the defendant remains incapable of understanding the nature 1272
and objective of the proceedings against the defendant or of 1273
assisting in the defendant's defense, the trial court shall 1274
order that the defendant continues to be incompetent to stand 1275
trial, that the defendant's commitment to the department of 1276
~~mental health and addiction services~~ behavioral health or to an 1277
institution, facility, or program for the treatment of 1278
intellectual disabilities shall be continued, and that the 1279
defendant remains subject to the jurisdiction of the trial court 1280

pursuant to that commitment, and to the provisions of this 1281
section, until the final termination of the commitment as 1282
described in division (J) (1) of this section. 1283

Sec. 5120.101. (A) The department of rehabilitation and 1284
correction shall establish a mental health and substance abuse 1285
community-based correctional facility pilot program to expand 1286
mental health and substance abuse treatment opportunities in 1287
community-based correctional facilities. 1288

(B) Under the mental health and substance abuse community- 1289
based correctional facility pilot program, the department of 1290
rehabilitation and correction shall do all of the following: 1291

(1) Identify existing locations within community-based 1292
correctional facilities where residents in need of mental health 1293
or substance abuse treatment may reside; 1294

(2) Acquire medications for mental health and substance 1295
abuse treatment and provide those medications to residents in 1296
need of mental health or substance abuse treatment in community- 1297
based correctional facilities; 1298

(3) Hire staff that specialize in mental health and 1299
substance abuse treatment and employ them in community-based 1300
correctional facilities. 1301

Section 2. That existing sections 2945.37, 2945.38, 1302
2945.39, and 2945.401 of the Revised Code are hereby repealed. 1303

Section 3. All items in this act are hereby appropriated 1304
as designated out of any moneys in the state treasury to the 1305
credit of the designated fund. For all operating appropriations 1306
made in this act, those in the first column are for fiscal year 1307
2026 and those in the second column are for fiscal year 2027. 1308
The operating appropriations made in this act are in addition to 1309

any other operating appropriations made for these fiscal years. 1310

Section 4. 1311

1312

1 2 3 4 5

A DRC DEPARTMENT OF REHABILITATION AND CORRECTION

B Dedicated Purpose Fund Group

C 5BQ1 501629 Mental Health Community-Based \$26,000,000 \$0
Correctional Facility

D TOTAL DPF Dedicated Purpose Fund Group \$26,000,000 \$0

E TOTAL ALL BUDGET FUND GROUPS \$26,000,000 \$0

MENTAL HEALTH COMMUNITY-BASED CORRECTIONAL FACILITY 1313

The foregoing appropriation item 501629, Mental Health 1314
Community-Based Correctional Facility, shall be used by the 1315
Department of Rehabilitation and Correction for the 1316
construction of a mental health and substance abuse community- 1317
based correctional facility to be located on state grounds in 1318
Lucas County and adjacent to the existing Toledo Correctional 1319
Institution and Lucas County Correctional Treatment Facility. 1320

On the effective date of this section, or as soon as 1321
possible thereafter, the Director of Budget and Management shall 1322
transfer \$26,000,000 cash from the General Revenue Fund to the 1323
Mental Health Community-Based Correctional Facility Fund (Fund 1324
5BQ1), which is hereby created in the state treasury. 1325

Section 5. Within the limits set forth in this act, the 1326
Director of Budget and Management shall establish accounts 1327

indicating the source and amount of funds for each appropriation 1328
made in this act, and shall determine the manner in which 1329
appropriation accounts shall be maintained. Expenditures from 1330
operating appropriations contained in this act shall be 1331
accounted for as though made in, and are subject to all 1332
applicable provisions of, H.B. 96 of the 136th General Assembly. 1333

Section 6. Not later than six months after the effective 1334
date of this section, the Medicaid Director shall seek a federal 1335
demonstration waiver from the United States Centers for Medicare 1336
and Medicaid services to provide mental health and substance use 1337
disorder treatment services to individuals participating in the 1338
mental health and substance abuse community-based correctional 1339
facility pilot program authorized by section 5120.101 of the 1340
Revised Code. 1341

Section 7. This act shall be known as the Mental Health 1342
and Community Wellness Act. 1343