

**As Introduced**

**136th General Assembly  
Regular Session  
2025-2026**

**H. B. No. 935**

**Representative Williams**

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To amend sections 149.43, 2101.24, 2108.90, 1  
2945.38, 2945.39, 2945.401, 5122.01, 5122.02, 2  
5122.03, 5122.05, 5122.09, 5122.10, 5122.11, 3  
5122.111, 5122.112, 5122.12, 5122.13, 5122.14, 4  
5122.141, 5122.15, 5122.20, 5122.23, 5122.25, 5  
5122.26, 5122.27, 5122.271, 5122.29, 5122.31, 6  
5122.311, 5122.35, 5122.36, 5122.38, 5122.41, 7  
5122.43, 5123.01, 5123.21, 5123.39, 5123.57, 8  
5123.58, 5123.61, 5123.70, 5123.71, 5123.73, 9  
5123.74, 5123.75, 5123.76, 5123.79, 5123.81, 10  
5123.811, 5123.86, 5123.89, 5123.92, 5123.95, 11  
5123.96, and 5123.97 and to enact section 12  
5122.051 of the Revised Code to allow a criminal 13  
court to determine whether a defendant is a 14  
mentally ill person subject to a court order or 15  
a person with an intellectual disability subject 16  
to institutionalization if the criminal court is 17  
determining whether the defendant is competent 18  
to stand trial. 19

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

**Section 1.** That sections 149.43, 2101.24, 2108.90, 20  
2945.38, 2945.39, 2945.401, 5122.01, 5122.02, 5122.03, 5122.05, 21

5122.09, 5122.10, 5122.11, 5122.111, 5122.112, 5122.12, 5122.13, 22  
5122.14, 5122.141, 5122.15, 5122.20, 5122.23, 5122.25, 5122.26, 23  
5122.27, 5122.271, 5122.29, 5122.31, 5122.311, 5122.35, 5122.36, 24  
5122.38, 5122.41, 5122.43, 5123.01, 5123.21, 5123.39, 5123.57, 25  
5123.58, 5123.61, 5123.70, 5123.71, 5123.73, 5123.74, 5123.75, 26  
5123.76, 5123.79, 5123.81, 5123.811, 5123.86, 5123.89, 5123.92, 27  
5123.95, 5123.96, and 5123.97 be amended and section 5122.051 of 28  
the Revised Code be enacted to read as follows: 29

**Sec. 149.43.** (A) As used in this section: 30

(1) "Public record" means records kept by any public 31  
office, including, but not limited to, state, county, city, 32  
village, township, and school district units, and records 33  
pertaining to the delivery of educational services by an 34  
alternative school in this state kept by the nonprofit or for- 35  
profit entity operating the alternative school pursuant to 36  
section 3313.533 of the Revised Code. "Public record" does not 37  
mean any of the following: 38

(a) Medical records; 39

(b) Records pertaining to probation and parole 40  
proceedings, to proceedings related to the imposition of 41  
community control sanctions and post-release control sanctions, 42  
or to proceedings related to determinations under section 43  
2967.271 of the Revised Code regarding the release or maintained 44  
incarceration of an offender to whom that section applies; 45

(c) Records pertaining to actions under section 2151.85 46  
and division (C) of section 2919.121 of the Revised Code and to 47  
appeals of actions arising under those sections; 48

(d) Records pertaining to adoption proceedings, including 49  
the contents of an adoption file maintained by the department of 50

health under sections 3705.12 to 3705.124 of the Revised Code;	51
(e) Information in a record contained in the putative	52
father registry established by section 3107.062 of the Revised	53
Code, regardless of whether the information is held by the	54
department of children and youth or, pursuant to section 3111.69	55
of the Revised Code, the office of child support in the	56
department of job and family services or a child support	57
enforcement agency;	58
(f) Records specified in division (A) of section 3107.52	59
of the Revised Code;	60
(g) Trial preparation records, prior to the conclusion of	61
all direct appeals or, if no appeal is filed, prior to the	62
expiration of the time during which an appeal may be filed, or,	63
if no trial has occurred, until the civil or criminal action or	64
proceeding has ended without the possibility of direct appeal or	65
each agency, office, or official responsible for the matter has	66
made a decision not to proceed with the matter;	67
(h) Confidential law enforcement investigatory records;	68
(i) Records containing information that is confidential	69
under section 2710.03 or 4112.05 of the Revised Code;	70
(j) DNA records stored in the DNA database pursuant to	71
section 109.573 of the Revised Code;	72
(k) Inmate records under section 5120.21 of the Revised	73
Code, except for permitted disclosure of the information listed	74
in division (E) (1) of that section;	75
(l) Records maintained by the department of youth services	76
pertaining to children in its custody released by the department	77
of youth services to the department of rehabilitation and	78

correction pursuant to section 5139.05 of the Revised Code;	79
(m) Intellectual property records;	80
(n) Donor profile records;	81
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	82 83
(p) Designated public service worker residential and familial information;	84 85
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	86 87 88 89 90
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	91 92
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	93 94 95 96 97 98 99 100 101 102 103 104
(t) Records provided to and statements made by the executive director of a public children services agency or a	105 106

prosecuting attorney acting pursuant to section 5153.171 of the	107
Revised Code other than the information released under that	108
section;	109
(u) Test materials, examinations, or evaluation tools used	110
in an examination for licensure as a nursing home administrator	111
that the board of executives of long-term services and supports	112
administers under section 4751.15 of the Revised Code or	113
contracts under that section with a private or government entity	114
to administer;	115
(v) Records the release of which is prohibited by state or	116
federal law;	117
(w) Proprietary information of or relating to any person	118
that is submitted to or compiled by the Ohio venture capital	119
authority created under section 150.01 of the Revised Code;	120
(x) Financial statements and data any person submits for	121
any purpose to the Ohio housing finance agency or the	122
controlling board in connection with applying for, receiving, or	123
accounting for financial assistance from the agency, and	124
information that identifies any individual who benefits directly	125
or indirectly from financial assistance from the agency;	126
(y) Records listed in section 5101.29 of the Revised Code;	127
(z) Discharges recorded with a county recorder under	128
section 317.24 of the Revised Code, as specified in division (B)	129
(2) of that section;	130
(aa) Usage information including names and addresses of	131
specific residential and commercial customers of a municipally	132
owned or operated public utility;	133
(bb) Records described in division (C) of section 187.04	134

of the Revised Code that are not designated to be made available 135  
to the public as provided in that division; 136

(cc) Information and records that are made confidential, 137  
privileged, and not subject to disclosure under divisions (B) 138  
and (C) of section 2949.221 of the Revised Code; 139

(dd) Personal information, as defined in section 149.45 of 140  
the Revised Code; 141

(ee) The confidential name, address, and other personally 142  
identifiable information of a program participant in the address 143  
confidentiality program established under sections 111.41 to 144  
111.47 of the Revised Code, including the contents of any 145  
application for absent voter's ballots, absent voter's ballot 146  
identification envelope statement of voter, or provisional 147  
ballot affirmation completed by a program participant who has a 148  
confidential voter registration record; records or portions of 149  
records pertaining to that program that identify the number of 150  
program participants that reside within a precinct, ward, 151  
township, municipal corporation, county, or any other geographic 152  
area smaller than the state; and any real property 153  
confidentiality notice filed under section 111.431 of the 154  
Revised Code and the information described in division (C) of 155  
that section. As used in this division, "confidential address" 156  
and "program participant" have the meaning defined in section 157  
111.41 of the Revised Code. 158

(ff) Orders for active military service of an individual 159  
serving or with previous service in the armed forces of the 160  
United States, including a reserve component, or the Ohio 161  
organized militia, except that, such order becomes a public 162  
record on the day that is fifteen years after the published date 163  
or effective date of the call to order; 164

(gg) The name, address, contact information, or other personal information of an individual who is less than eighteen years of age that is included in any record related to a traffic accident involving a school vehicle in which the individual was an occupant at the time of the accident;

(hh) Protected health information, as defined in 45 C.F.R. 160.103, that is in a claim for payment for a health care product, service, or procedure, as well as any other health claims data in another document that reveals the identity of an individual who is the subject of the data or could be used to reveal that individual's identity;

(ii) Any depiction by photograph, film, videotape, or printed or digital image under either of the following circumstances:

(i) The depiction is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity.

(ii) The depiction captures or depicts the victim of a sexually oriented offense, as defined in section 2950.01 of the Revised Code, at the actual occurrence of that offense.

(jj) Restricted portions of a body-worn camera or dashboard camera recording;

(kk) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by

the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section 5180.27 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section 5180.277 of the Revised Code;

(mm) Except as otherwise provided in division (A) (1) (oo) of this section, telephone numbers for a victim, as defined in section 2930.01 of the Revised Code or a witness to a crime that are listed on any law enforcement record or report.

(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised Code.

(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.

(pp) Records pertaining to individuals who complete

training under section 5502.703 of the Revised Code to be	223
permitted by a school district board of education or governing	224
body of a community school established under Chapter 3314. of	225
the Revised Code, a STEM school established under Chapter 3326.	226
of the Revised Code, or a chartered nonpublic school to convey	227
deadly weapons or dangerous ordnance into a school safety zone;	228
(qq) Records, documents, reports, or other information	229
presented to a domestic violence fatality review board	230
established under section 307.651 of the Revised Code,	231
statements made by board members during board meetings, all work	232
products of the board, and data submitted by the board to the	233
department of health, other than a report prepared pursuant to	234
section 307.656 of the Revised Code;	235
(rr) Records, documents, and information the release of	236
which is prohibited under sections 2930.04 and 2930.07 of the	237
Revised Code;	238
(ss) Records of an existing qualified nonprofit	239
corporation that creates a special improvement district under	240
Chapter 1710. of the Revised Code that do not pertain to a	241
purpose for which the district is created;	242
(tt) Educational support services data, as defined in	243
section 3319.325 of the Revised Code;	244
(uu) Records of the past, current, and future work	245
schedule of a designated public service worker. As used in	246
division (A)(1)(uu) of this section, "work schedule" does not	247
include the docket of cases of a court, judge, or magistrate;	248
(vv) A request form or confirmation letter submitted to a	249
public office under section 149.45 of the Revised Code;	250
(ww) An affidavit or confirmation letter submitted under	251

section 319.28 of the Revised Code;	252
(xx) License or certificate application or renewal	253
responses and supporting documentation submitted to the state	254
medical board regarding an applicant's, or a license or	255
certificate holder's, inability to practice according to	256
acceptable and prevailing standards of care by reason of a	257
medical condition;	258
(yy) Images and data captured by an automated license	259
plate recognition system that are maintained in a law	260
enforcement database;	261
(zz) Attorney work product record;	262
(aaa) Any entry on the public calendar of an elected	263
official that is for any date that is after the date the record	264
is requested;	265
(bbb) Records pertaining to burial sites under section	266
149.3010 of the Revised Code.	267
A record that is not a public record under division (A) (1)	268
of this section and that, under law, is permanently retained	269
becomes a public record on the day that is seventy-five years	270
after the day on which the record was created, or in the case of	271
a record that is not a public record under division (A) (1) (uu)	272
of this section that is retained, three years after the day on	273
which the record was created, except for any record protected by	274
the attorney-client privilege, a trial preparation record as	275
defined in this section, a statement prohibiting the release of	276
identifying information signed under section 3107.083 of the	277
Revised Code, a denial of release form filed pursuant to section	278
3107.46 of the Revised Code, records pertaining to burial sites	279
under section 149.3010 of the Revised Code, or any record that	280

is exempt from release or disclosure under section 149.433 of 281  
the Revised Code. If the record is a birth certificate and a 282  
biological parent's name redaction request form has been 283  
accepted under section 3107.391 of the Revised Code, the name of 284  
that parent shall be redacted from the birth certificate before 285  
it is released under this paragraph. If any other section of the 286  
Revised Code establishes a time period for disclosure of a 287  
record that conflicts with the time period specified in this 288  
section, the time period in the other section prevails. 289

(2) (a) "Confidential law enforcement investigatory record" 290  
means any record that pertains to a law enforcement matter of a 291  
criminal, quasi-criminal, civil, or administrative nature, but 292  
only to the extent that the release of the record would create a 293  
high probability of disclosure of any of the following: 294

(i) The identity of a suspect who has not been charged 295  
with the offense to which the record pertains, or of an 296  
information source or witness to whom confidentiality has been 297  
reasonably promised; 298

(ii) Information provided by an information source or 299  
witness to whom confidentiality has been reasonably promised, 300  
which information would reasonably tend to disclose the source's 301  
or witness's identity; 302

(iii) Specific confidential investigatory techniques or 303  
procedures or specific investigatory work product; 304

(iv) Information that would endanger the life or physical 305  
safety of law enforcement personnel, a crime victim, a witness, 306  
or a confidential information source. 307

(b) As used in divisions (A) (2) and (18) of this section, 308  
"specific investigatory work product" means information 309

assembled by law enforcement officials in connection with a 310  
probable or pending criminal or civil proceeding, with the 311  
exception of routine incident reports. "Specific investigatory 312  
work product" is not a public record prior to the conclusion of 313  
all direct appeals, or, if no appeal is filed, prior to the 314  
expiration of the time during which an appeal may be filed, or, 315  
if no trial has occurred, until the criminal or civil proceeding 316  
has ended without possibility of direct appeal or each agency, 317  
office, or official responsible for the matter has made a 318  
decision not to proceed with the matter. 319

(3) "Medical record" means any document or combination of 320  
documents, except births, deaths, and the fact of admission to 321  
or discharge from a hospital, that pertains to the medical 322  
history, diagnosis, prognosis, or medical condition of a patient 323  
and that is generated and maintained in the process of medical 324  
treatment. 325

(4) "Trial preparation record" means any record created by 326  
or for another party or by or for that party's representative, 327  
in reasonable anticipation of, or in defense of, a civil or 328  
criminal action or proceeding, that is not a confidential law 329  
enforcement investigatory record or attorney work product record 330  
and that contains factual information that is specifically 331  
compiled for that civil or criminal action or proceeding. 332

(5) "Intellectual property record" means a record, other 333  
than a financial or administrative record, that is produced or 334  
collected by or for faculty or staff of a state institution of 335  
higher learning in the conduct of or as a result of study or 336  
research on an educational, commercial, scientific, artistic, 337  
technical, or scholarly issue, regardless of whether the study 338  
or research was sponsored by the institution alone or in 339

conjunction with a governmental body or private concern, and 340  
that has not been publicly released, published, or patented. 341

(6) "Donor profile record" means all records about donors 342  
or potential donors to a public institution of higher education 343  
except the names and reported addresses of the actual donors and 344  
the date, amount, and conditions of the actual donation. 345

(7) "Designated public service worker" means a peace 346  
officer, parole officer, probation officer, bailiff, prosecuting 347  
attorney, assistant prosecuting attorney, correctional employee, 348  
county or multicounty corrections officer, community-based 349  
correctional facility employee, designated Ohio national guard 350  
member, protective services worker, youth services employee, 351  
firefighter, EMT, medical director or member of a cooperating 352  
physician advisory board of an emergency medical service 353  
organization, state board of pharmacy employee, investigator of 354  
the bureau of criminal identification and investigation, 355  
emergency service telecommunicator, forensic mental health 356  
provider, mental health evaluation provider, regional 357  
psychiatric hospital employee, judge, magistrate, or federal law 358  
enforcement officer. 359

(8) "Designated public service worker residential and 360  
familial information" means any information that discloses any 361  
of the following about a designated public service worker: 362

(a) The address of the actual personal residence of a 363  
designated public service worker, except for the following 364  
information: 365

(i) The address of the actual personal residence of a 366  
prosecuting attorney or judge; and 367

(ii) The state or political subdivision in which a 368

designated public service worker resides.	369
(b) Information compiled from referral to or participation in an employee assistance program;	370 371
(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;	372 373 374 375 376
(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;	377 378 379 380
(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;	381 382 383 384 385
(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a designated public service worker;	386 387 388 389 390 391
(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.	392 393 394 395
(9) As used in divisions (A) (7) and (15) to (17) of this section:	396 397

"Peace officer" has the meaning defined in section 109.71 398  
of the Revised Code and also includes the superintendent and 399  
troopers of the state highway patrol; it does not include the 400  
sheriff of a county or a supervisory employee who, in the 401  
absence of the sheriff, is authorized to stand in for, exercise 402  
the authority of, and perform the duties of the sheriff. 403

"Correctional employee" means any employee of the 404  
department of rehabilitation and correction who in the course of 405  
performing the employee's job duties has or has had contact with 406  
inmates and persons under supervision. 407

"County or multicounty corrections officer" means any 408  
corrections officer employed by any county or multicounty 409  
correctional facility. 410

"Designated Ohio national guard member" means a member of 411  
the Ohio national guard who is participating in duties related 412  
to remotely piloted aircraft, including, but not limited to, 413  
pilots, sensor operators, and mission intelligence personnel, 414  
duties related to special forces operations, or duties related 415  
to cybersecurity, and is designated by the adjutant general as a 416  
designated public service worker for those purposes. 417

"Protective services worker" means any employee of a 418  
county agency who is responsible for child protective services, 419  
child support services, or adult protective services. 420

"Youth services employee" means any employee of the 421  
department of youth services who in the course of performing the 422  
employee's job duties has or has had contact with children 423  
committed to the custody of the department of youth services. 424

"Firefighter" means any regular, paid or volunteer, member 425  
of a lawfully constituted fire department of a municipal 426

corporation, township, fire district, or village. 427

"EMT" means EMTs-basic, EMTs-I, and paramedics that 428  
provide emergency medical services for a public emergency 429  
medical service organization. "Emergency medical service 430  
organization," "EMT-basic," "EMT-I," and "paramedic" have the 431  
meanings defined in section 4765.01 of the Revised Code. 432

"Investigator of the bureau of criminal identification and 433  
investigation" has the meaning defined in section 2903.11 of the 434  
Revised Code. 435

"Emergency service telecommunicator" means an individual 436  
employed by an emergency service provider as defined under 437  
section 128.01 of the Revised Code, whose primary responsibility 438  
is to be an operator for the receipt or processing of calls for 439  
emergency services made by telephone, radio, or other electronic 440  
means. 441

"Forensic mental health provider" means any employee of a 442  
community mental health service provider or local alcohol, drug 443  
addiction, and mental health services board who, in the course 444  
of the employee's duties, has contact with persons committed to 445  
a local alcohol, drug addiction, and mental health services 446  
board by a court order pursuant to section 2945.38, 2945.39, 447  
2945.40, or 2945.402 of the Revised Code. 448

"Mental health evaluation provider" means an individual 449  
who, under Chapter 5122. of the Revised Code, examines a 450  
respondent who is alleged to be a mentally ill person subject to 451  
court order, as defined in section 5122.01 of the Revised Code, 452  
and reports to the probate court or criminal court the 453  
respondent's mental condition. 454

"Regional psychiatric hospital employee" means any 455

employee of the department of ~~mental health and addiction~~ 456  
~~services~~ behavioral health who, in the course of performing the 457  
employee's duties, has contact with patients committed to the 458  
department of ~~mental health and addiction services~~ behavioral 459  
health by a court order pursuant to section 2945.38, 2945.39, 460  
2945.40, or 2945.402 of the Revised Code. 461

"Federal law enforcement officer" has the meaning defined 462  
in section 9.88 of the Revised Code. 463

(10) "Information pertaining to the recreational 464  
activities of a person under the age of eighteen" means 465  
information that is kept in the ordinary course of business by a 466  
public office, that pertains to the recreational activities of a 467  
person under the age of eighteen years, and that discloses any 468  
of the following: 469

(a) The address or telephone number of a person under the 470  
age of eighteen or the address or telephone number of that 471  
person's parent, guardian, custodian, or emergency contact 472  
person; 473

(b) The social security number, birth date, or 474  
photographic image of a person under the age of eighteen; 475

(c) Any medical record, history, or information pertaining 476  
to a person under the age of eighteen; 477

(d) Any additional information sought or required about a 478  
person under the age of eighteen for the purpose of allowing 479  
that person to participate in any recreational activity 480  
conducted or sponsored by a public office or to use or obtain 481  
admission privileges to any recreational facility owned or 482  
operated by a public office. 483

(11) "Community control sanction" has the meaning defined 484

in section 2929.01 of the Revised Code.	485
(12) "Post-release control sanction" has the meaning defined in section 2967.01 of the Revised Code.	486 487
(13) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.	488 489 490 491
(14) "Designee," "elected official," and "future official" have the meanings defined in section 109.43 of the Revised Code.	492 493
(15) "Body-worn camera" means a visual and audio recording device worn on the person of a correctional employee, youth services employee, or peace officer while the correctional employee, youth services employee, or peace officer is engaged in the performance of official duties.	494 495 496 497 498
(16) "Dashboard camera" means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.	499 500 501 502
(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:	503 504 505 506
(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the department of rehabilitation and correction, department of youth services, or the law enforcement agency knows or has reason to know the person is a child based on the department's or law enforcement agency's records or the content of the recording;	507 508 509 510 511 512 513

(b) The death of a person or a deceased person's body, 514  
unless the death was caused by a correctional employee, youth 515  
services employee, or peace officer or, subject to division (H) 516  
(1) of this section, the consent of the decedent's executor or 517  
administrator has been obtained; 518

(c) The death of a correctional employee, youth services 519  
employee, peace officer, firefighter, paramedic, or other first 520  
responder, occurring while the decedent was engaged in the 521  
performance of official duties, unless, subject to division (H) 522  
(1) of this section, the consent of the decedent's executor or 523  
administrator has been obtained; 524

(d) Grievous bodily harm, unless the injury was effected 525  
by a correctional employee, youth services employee, or peace 526  
officer or, subject to division (H) (1) of this section, the 527  
consent of the injured person or the injured person's guardian 528  
has been obtained; 529

(e) An act of severe violence against a person that 530  
results in serious physical harm to the person, unless the act 531  
and injury was effected by a correctional employee, youth 532  
services employee, or peace officer or, subject to division (H) 533  
(1) of this section, the consent of the injured person or the 534  
injured person's guardian has been obtained; 535

(f) Grievous bodily harm to a correctional employee, youth 536  
services employee, peace officer, firefighter, paramedic, or 537  
other first responder, occurring while the injured person was 538  
engaged in the performance of official duties, unless, subject 539  
to division (H) (1) of this section, the consent of the injured 540  
person or the injured person's guardian has been obtained; 541

(g) An act of severe violence resulting in serious 542

physical harm against a correctional employee, youth services 543  
employee, peace officer, firefighter, paramedic, or other first 544  
responder, occurring while the injured person was engaged in the 545  
performance of official duties, unless, subject to division (H) 546  
(1) of this section, the consent of the injured person or the 547  
injured person's guardian has been obtained; 548

(h) A person's nude body, unless, subject to division (H) 549  
(1) of this section, the person's consent has been obtained; 550

(i) Protected health information, the identity of a person 551  
in a health care facility who is not the subject of a 552  
correctional, youth services, or law enforcement encounter, or 553  
any other information in a health care facility that could 554  
identify a person who is not the subject of a correctional, 555  
youth services, or law enforcement encounter; 556

(j) Information that could identify the alleged victim of 557  
a sex offense, menacing by stalking, or domestic violence; 558

(k) Information, that does not constitute a confidential 559  
law enforcement investigatory record, that could identify a 560  
person who provides sensitive or confidential information to the 561  
department of rehabilitation and correction, the department of 562  
youth services, or a law enforcement agency when the disclosure 563  
of the person's identity or the information provided could 564  
reasonably be expected to threaten or endanger the safety or 565  
property of the person or another person; 566

(l) Personal information of a person who is not arrested, 567  
cited, charged, or issued a written warning by a peace officer; 568

(m) Proprietary correctional, youth services, or police 569  
contingency plans or tactics that are intended to prevent crime 570  
and maintain public order and safety; 571

(n) A personal conversation unrelated to work between 572  
correctional employees, youth services employees, or peace 573  
officers or between a correctional employee, youth services 574  
employee, or peace officer and an employee of a law enforcement 575  
agency; 576

(o) A conversation between a correctional employee, youth 577  
services employee, or peace officer and a member of the public 578  
that does not concern correctional, youth services, or law 579  
enforcement activities; 580

(p) The interior of a residence, unless the interior of a 581  
residence is the location of an adversarial encounter with, or a 582  
use of force by, a correctional employee, youth services 583  
employee, or peace officer; 584

(q) Any portion of the interior of a private business that 585  
is not open to the public, unless an adversarial encounter with, 586  
or a use of force by, a correctional employee, youth services 587  
employee, or peace officer occurs in that location. 588

As used in division (A) (17) of this section: 589

"Grievous bodily harm" has the same meaning as in section 590  
5924.120 of the Revised Code. 591

"Health care facility" has the same meaning as in section 592  
1337.11 of the Revised Code. 593

"Protected health information" has the same meaning as in 594  
45 C.F.R. 160.103. 595

"Law enforcement agency" means a government entity that 596  
employs peace officers to perform law enforcement duties. 597

"Personal information" means any government-issued 598  
identification number, date of birth, address, financial 599

information, or criminal justice information from the law 600  
enforcement automated data system or similar databases. 601

"Sex offense" has the same meaning as in section 2907.10 602  
of the Revised Code. 603

"Firefighter," "paramedic," and "first responder" have the 604  
same meanings as in section 4765.01 of the Revised Code. 605

(18) "Attorney work product record" means a record that is 606  
not specific investigatory work product or a trial preparation 607  
record and that is created by an attorney, or by the agent of an 608  
attorney, in reasonable anticipation of or for litigation, 609  
trial, or administrative proceedings, when acting in an official 610  
capacity on behalf of the state, a political subdivision of the 611  
state, a state agency, a public official, or a public employee, 612  
that documents the independent thought processes, mental 613  
impressions, legal theories, strategies, analysis, or reasoning 614  
of an attorney or the agent of an attorney. 615

(19) "Elected official" means a person who is elected or 616  
appointed to an elective office of the state or a political 617  
subdivision. 618

(20) "Public calendar" means a calendar or appointment 619  
book maintained by an elected official to schedule the elected 620  
official's activities in relation to the elected official's 621  
position as an elected official. "Public calendar" does not 622  
include a personal calendar or appointment book maintained 623  
solely for an elected official's personal convenience that does 624  
not serve to document the elected official's official activities 625  
or functions or the official activities or functions of the 626  
elected official's public office. 627

(B) (1) Upon request by any person and subject to division 628

(B) (8) of this section, all public records responsive to the 629  
request shall be promptly prepared and made available for 630  
inspection to the requester at all reasonable times during 631  
regular business hours. Subject to division (B) (8) of this 632  
section, upon request by any person, a public office or person 633  
responsible for public records shall make copies of the 634  
requested public record available to the requester at cost and 635  
within a reasonable period of time. 636

When considering whether a state or local law enforcement 637  
agency or a prosecuting attorney's office promptly prepared a 638  
video record for inspection or produced a copy of a video record 639  
within a reasonable period of time, in addition to any other 640  
factors, a court shall consider the time required for a state or 641  
local law enforcement agency or a prosecuting attorney's office 642  
to retrieve, download, review, redact, seek legal advice 643  
regarding, and produce the video record. Except as specified in 644  
division (B) (11) of this section, notwithstanding any other 645  
requirement set forth in Chapter 149. of the Revised Code, a 646  
state or local law enforcement agency or a prosecuting 647  
attorney's office may charge a requester the actual cost 648  
associated with preparing a video record for inspection or 649  
production, not to exceed seventy-five dollars per hour of video 650  
produced, nor seven hundred fifty dollars total. As used in this 651  
division, "actual cost," with respect to video records only, 652  
means all costs incurred by the state or local law enforcement 653  
agency or a prosecuting attorney's office in reviewing, blurring 654  
or otherwise obscuring, redacting, uploading, or producing the 655  
video records, including but not limited to the storage medium 656  
on which the record is produced, staff time, and any other 657  
relevant overhead necessary to comply with the request. A state 658  
or local law enforcement agency or a prosecuting attorney's 659

office may include in its public records policy the requirement 660  
that a requester pay the estimated actual cost before beginning 661  
the process of preparing a video record for inspection or 662  
production. Where a state or local law enforcement agency or a 663  
prosecuting attorney's office imposes such a requirement, its 664  
obligation to produce a video or make it available for 665  
inspection begins once the estimated actual cost is paid in full 666  
by the requester. A state or local law enforcement agency or a 667  
prosecuting attorney's office shall provide the requester with 668  
the estimated actual cost within five business days of receipt 669  
of the public records request. If the actual cost exceeds the 670  
estimated actual cost, a state or local law enforcement agency 671  
or a prosecuting attorney's office may charge a requester for 672  
the difference upon fulfilling a request for video records if 673  
the requester is notified in advance that the actual cost may be 674  
up to twenty per cent higher than the estimated actual cost. A 675  
state or local law enforcement agency or a prosecuting 676  
attorney's office shall not charge a requester a difference that 677  
exceeds twenty per cent of the estimated actual cost. 678

If a public record contains information that is exempt 679  
from the duty to permit public inspection or to copy the public 680  
record, the public office or the person responsible for the 681  
public record shall make available all of the information within 682  
the public record that is not exempt. When making that public 683  
record available for public inspection or copying that public 684  
record, the public office or the person responsible for the 685  
public record shall notify the requester of any redaction or 686  
make the redaction plainly visible. A redaction shall be deemed 687  
a denial of a request to inspect or copy the redacted 688  
information, except if federal or state law authorizes or 689  
requires a public office to make the redaction. When the auditor 690

of state receives a request to inspect or to make a copy of a 691  
record that was provided to the auditor of state for purposes of 692  
an audit, but the original public office has asserted to the 693  
auditor of state that the record is not a public record, the 694  
auditor of state may handle the requests by directing the 695  
requestor to the original public office that provided the record 696  
to the auditor of state. 697

(2) To facilitate broader access to public records, a 698  
public office or the person responsible for public records shall 699  
organize and maintain public records in a manner that they can 700  
be made available for inspection or copying in accordance with 701  
division (B) of this section. A public office also shall have 702  
available a copy of its current records retention schedule at a 703  
location readily available to the public. If a requester makes 704  
an ambiguous or overly broad request or has difficulty in making 705  
a request for copies or inspection of public records under this 706  
section such that the public office or the person responsible 707  
for the requested public record cannot reasonably identify what 708  
public records are being requested, the public office or the 709  
person responsible for the requested public record may deny the 710  
request but shall provide the requester with an opportunity to 711  
revise the request by informing the requester of the manner in 712  
which records are maintained by the public office and accessed 713  
in the ordinary course of the public office's or person's 714  
duties. 715

(3) If a request is ultimately denied, in part or in 716  
whole, the public office or the person responsible for the 717  
requested public record shall provide the requester with an 718  
explanation, including legal authority, setting forth why the 719  
request was denied. If the initial request was provided in 720  
writing, the explanation also shall be provided to the requester 721

in writing. The explanation shall not preclude the public office 722  
or the person responsible for the requested public record from 723  
relying upon additional reasons or legal authority in defending 724  
an action commenced under division (C) of this section. 725

(4) Unless specifically required or authorized by state or 726  
federal law or in accordance with division (B) of this section, 727  
no public office or person responsible for public records may 728  
limit or condition the availability of public records by 729  
requiring disclosure of the requester's identity or the intended 730  
use of the requested public record. Any requirement that the 731  
requester disclose the requester's identity or the intended use 732  
of the requested public record constitutes a denial of the 733  
request. 734

(5) A public office or person responsible for public 735  
records may ask a requester to make the request in writing, may 736  
ask for the requester's identity, and may inquire about the 737  
intended use of the information requested, but may do so only 738  
after disclosing to the requester that a written request is not 739  
mandatory, that the requester may decline to reveal the 740  
requester's identity or the intended use, and when a written 741  
request or disclosure of the identity or intended use would 742  
benefit the requester by enhancing the ability of the public 743  
office or person responsible for public records to identify, 744  
locate, or deliver the public records sought by the requester. 745

(6) If any person requests a copy of a public record in 746  
accordance with division (B) of this section, the public office 747  
or person responsible for the public record may require the 748  
requester to pay in advance the cost involved in providing the 749  
copy of the public record in accordance with the choice made by 750  
the requester under this division. The public office or the 751

person responsible for the public record shall permit the 752  
requester to choose to have the public record duplicated upon 753  
paper, upon the same medium upon which the public office or 754  
person responsible for the public record keeps it, or upon any 755  
other medium upon which the public office or person responsible 756  
for the public record determines that it reasonably can be 757  
duplicated as an integral part of the normal operations of the 758  
public office or person responsible for the public record. When 759  
the requester makes a choice under this division, the public 760  
office or person responsible for the public record shall provide 761  
a copy of it in accordance with the choice made by the 762  
requester. Nothing in this section requires a public office or 763  
person responsible for the public record to allow the requester 764  
of a copy of the public record to make the copies of the public 765  
record. 766

(7) (a) Upon a request made in accordance with division (B) 767  
of this section and subject to division (B) (6) of this section, 768  
a public office or person responsible for public records shall 769  
transmit a copy of a public record to any person by United 770  
States mail or by any other means of delivery or transmission 771  
within a reasonable period of time after receiving the request 772  
for the copy. The public office or person responsible for the 773  
public record may require the person making the request to pay 774  
in advance the cost of postage if the copy is transmitted by 775  
United States mail or the cost of delivery if the copy is 776  
transmitted other than by United States mail, and to pay in 777  
advance the costs incurred for other supplies used in the 778  
mailing, delivery, or transmission. 779

(b) Any public office may adopt a policy and procedures 780  
that it will follow in transmitting, within a reasonable period 781  
of time after receiving a request, copies of public records by 782

United States mail or by any other means of delivery or 783  
transmission pursuant to division (B) (7) of this section. A 784  
public office that adopts a policy and procedures under division 785  
(B) (7) of this section shall comply with them in performing its 786  
duties under that division. 787

(c) In any policy and procedures adopted under division 788  
(B) (7) of this section: 789

(i) A public office may limit the number of records 790  
requested by a person that the office will physically deliver by 791  
United States mail or by another delivery service to ten per 792  
month, unless the person certifies to the office in writing that 793  
the person does not intend to use or forward the requested 794  
records, or the information contained in them, for commercial 795  
purposes; 796

(ii) A public office that chooses to provide some or all 797  
of its public records on a web site that is fully accessible to 798  
and searchable by members of the public at all times, other than 799  
during acts of God outside the public office's control or 800  
maintenance, and that charges no fee to search, access, 801  
download, or otherwise receive records provided on the web site, 802  
may limit to ten per month the number of records requested by a 803  
person that the office will deliver in a digital format, unless 804  
the requested records are not provided on the web site and 805  
unless the person certifies to the office in writing that the 806  
person does not intend to use or forward the requested records, 807  
or the information contained in them, for commercial purposes. 808

(iii) For purposes of division (B) (7) of this section, 809  
"commercial" shall be narrowly construed and does not include 810  
reporting or gathering news, reporting or gathering information 811  
to assist citizen oversight or understanding of the operation or 812

activities of government, or nonprofit educational research. 813

(8) A public office or person responsible for public 814  
records is not required to permit a person who is incarcerated 815  
pursuant to a criminal conviction or a juvenile adjudication to 816  
inspect or to obtain a copy of any public record concerning a 817  
criminal investigation or prosecution or concerning what would 818  
be a criminal investigation or prosecution if the subject of the 819  
investigation or prosecution were an adult, unless the request 820  
to inspect or to obtain a copy of the record is for the purpose 821  
of acquiring information that is subject to release as a public 822  
record under this section and the judge who imposed the sentence 823  
or made the adjudication with respect to the person, or the 824  
judge's successor in office, finds that the information sought 825  
in the public record is necessary to support what appears to be 826  
a justiciable claim of the person. As used in this division, 827  
"public record concerning a criminal investigation or 828  
prosecution or concerning what would be a criminal investigation 829  
or prosecution if the subject of the investigation were an 830  
adult" includes, but is not limited to, personnel files and 831  
payroll and attendance records of designated public service 832  
workers. 833

(9) (a) Upon written request made and signed by a 834  
journalist, a public office, or person responsible for public 835  
records, having custody of the records of the agency employing a 836  
specified designated public service worker shall disclose to the 837  
journalist the address of the actual personal residence of the 838  
designated public service worker and, if the designated public 839  
service worker's spouse, former spouse, or child is employed by 840  
a public office, the name and address of the employer of the 841  
designated public service worker's spouse, former spouse, or 842  
child, and any past, current, and future work schedules of the 843

designated public service worker. The request shall include the 844  
journalist's name and title and the name and address of the 845  
journalist's employer and shall state that disclosure of the 846  
information sought would be in the public interest. 847

(b) Division (B) (9) (a) of this section also applies to 848  
journalist requests for: 849

(i) Customer information maintained by a municipally owned 850  
or operated public utility, other than social security numbers 851  
and any private financial information such as credit reports, 852  
payment methods, credit card numbers, and bank account 853  
information; 854

(ii) Information about minors involved in a school vehicle 855  
accident as provided in division (A) (1) (gg) of this section, 856  
other than personal information as defined in section 149.45 of 857  
the Revised Code; 858

(iii) A request form submitted to a public office under 859  
section 149.45 of the Revised Code; 860

(iv) An affidavit submitted under section 319.28 of the 861  
Revised Code. 862

(c) As used in division (B) (9) of this section, 863  
"journalist" means a person engaged in, connected with, or 864  
employed by any news medium, including a newspaper, magazine, 865  
press association, news agency, or wire service, a radio or 866  
television station, or a similar medium, for the purpose of 867  
gathering, processing, transmitting, compiling, editing, or 868  
disseminating information for the general public. 869

(10) Upon a request made by a victim, victim's attorney, 870  
or victim's representative, as that term is used in section 871  
2930.02 of the Revised Code, a public office or person 872

responsible for public records shall transmit a copy of a 873  
depiction of the victim as described in division (A) (1) (ii) of 874  
this section to the victim, victim's attorney, or victim's 875  
representative. 876

(11) A state or local law enforcement agency or a 877  
prosecuting attorney's office shall not charge a fee for 878  
preparing a video record for inspection, or producing a copy of 879  
a video record, when the requester of the video record is a 880  
victim, as defined in Ohio Constitution, Article I, Section 10a, 881  
or who is a victim who suffered loss and could seek remedy 882  
through a tort action as defined by section 2307.011 of the 883  
Revised Code, who reasonably asserts that the video recording 884  
relates to the act or omission that caused the victim's harm or 885  
loss, or who is the legal counsel or insurer of the victim. A 886  
fee under this section may only be waived upon the receipt of an 887  
affidavit by the victim or the victim's legal counsel 888  
identifying that the use of the video is to investigate harm or 889  
damages that may have been captured on the video. 890

As used in this division, "legal counsel of the victim" 891  
means an attorney who, at the time of making the request, 892  
produces to the state or local law enforcement agency or a 893  
prosecuting attorney's office a signed retention agreement or 894  
letter of representation that establishes that the attorney is 895  
representing the victim. 896

(C) (1) If a person allegedly is aggrieved by the failure 897  
of a public office or the person responsible for public records 898  
to promptly prepare a public record and to make it available to 899  
the person for inspection in accordance with division (B) of 900  
this section or by any other failure of a public office or the 901  
person responsible for public records to comply with an 902

obligation in accordance with division (B) of this section, the 903  
person allegedly aggrieved may serve pursuant to Rule 4 of the 904  
Ohio Rules of Civil Procedure a complaint, on a form prescribed 905  
by the clerk of the court of claims, to the public office or 906  
person responsible for public records allegedly responsible for 907  
the alleged failure. Upon receipt of the complaint of the person 908  
allegedly aggrieved, the public office or person responsible for 909  
public records has three business days to cure or otherwise 910  
address the failure alleged in the complaint. The person 911  
allegedly aggrieved shall not file a complaint with a court or 912  
commence a mandamus action under this section within the three- 913  
day period. Upon the expiration of the three-day period, the 914  
person allegedly aggrieved may, subject to the requirements of 915  
division (C) (2) of this section, do only one of the following, 916  
and not both: 917

(a) File a complaint with the clerk of the court of claims 918  
or the clerk of the court of common pleas under section 2743.75 919  
of the Revised Code; 920

(b) Commence a mandamus action to obtain a judgment that 921  
orders the public office or the person responsible for the 922  
public record to comply with division (B) of this section, that 923  
awards court costs and reasonable attorney's fees to the person 924  
that instituted the mandamus action, and, if applicable, that 925  
includes an order fixing statutory damages under division (C) (3) 926  
of this section. The mandamus action may be commenced in the 927  
court of common pleas of the county in which division (B) of 928  
this section allegedly was not complied with, in the supreme 929  
court pursuant to its original jurisdiction under Section 2 of 930  
Article IV, Ohio Constitution, or in the court of appeals for 931  
the appellate district in which division (B) of this section 932  
allegedly was not complied with pursuant to its original 933

jurisdiction under Section 3 of Article IV, Ohio Constitution. 934

(2) Upon filing a complaint or mandamus action with a 935  
court under divisions (C) (1) (a) or (b) of this section, a person 936  
allegedly aggrieved shall file with the court, in conjunction 937  
with the person's complaint or petition, a written affirmation 938  
stating that the person properly transmitted a complaint to the 939  
public office or person responsible for public records, the 940  
failure alleged in the complaint has not been cured or otherwise 941  
resolved to the person's satisfaction, and that the complaint 942  
was transmitted to the public office or person responsible for 943  
public records at least three business days before the filing of 944  
the suit. If the person fails to file an affirmation pursuant to 945  
this division, the suit shall be dismissed. 946

(3) If a requester transmits a written request by hand 947  
delivery, electronic submission, or certified mail to inspect or 948  
receive copies of any public record in a manner that fairly 949  
describes the public record or class of public records to the 950  
public office or person responsible for the requested public 951  
records, except as otherwise provided in this section, the 952  
requester shall be entitled to recover the amount of statutory 953  
damages set forth in this division if a court determines that 954  
the public office or the person responsible for public records 955  
failed to comply with an obligation in accordance with division 956  
(B) of this section. Statutory damages are not available 957  
pursuant to this section to a person committed to the custody of 958  
the department of rehabilitation and correction or the United 959  
States bureau of prisons, or a child committed to the department 960  
of youth services as permitted in Chapter 2152. of the Revised 961  
Code. 962

The amount of statutory damages shall be fixed at one 963

hundred dollars for each business day during which the public 964  
office or person responsible for the requested public records 965  
failed to comply with an obligation in accordance with division 966  
(B) of this section, beginning with the day on which the 967  
requester files a mandamus action to recover statutory damages, 968  
up to a maximum of one thousand dollars. The award of statutory 969  
damages shall not be construed as a penalty, but as compensation 970  
for injury arising from lost use of the requested information. 971  
The existence of this injury shall be conclusively presumed. The 972  
award of statutory damages shall be in addition to all other 973  
remedies authorized by this section. 974

The court may reduce an award of statutory damages or not 975  
award statutory damages if the court determines both of the 976  
following: 977

(a) That, based on the ordinary application of statutory 978  
law and case law as it existed at the time of the conduct or 979  
threatened conduct of the public office or person responsible 980  
for the requested public records that allegedly constitutes a 981  
failure to comply with an obligation in accordance with division 982  
(B) of this section and that was the basis of the mandamus 983  
action, a well-informed public office or person responsible for 984  
the requested public records reasonably would believe that the 985  
conduct or threatened conduct of the public office or person 986  
responsible for the requested public records did not constitute 987  
a failure to comply with an obligation in accordance with 988  
division (B) of this section; 989

(b) That a well-informed public office or person 990  
responsible for the requested public records reasonably would 991  
believe that the conduct or threatened conduct of the public 992  
office or person responsible for the requested public records 993

would serve the public policy that underlies the authority that 994  
is asserted as permitting that conduct or threatened conduct. 995

(4) In a mandamus action filed under division (C) (1) of 996  
this section, the following apply: 997

(a) (i) If the court orders the public office or the person 998  
responsible for the public record to comply with division (B) of 999  
this section, the court shall determine and award to the relator 1000  
all court costs, which shall be construed as remedial and not 1001  
punitive. 1002

(ii) If the court makes a determination described in 1003  
division (C) (4) (b) (iii) of this section, the court shall 1004  
determine and award to the relator all court costs, which shall 1005  
be construed as remedial and not punitive. 1006

(b) If the court renders a judgment that orders the public 1007  
office or the person responsible for the public record to comply 1008  
with division (B) of this section or if the court determines any 1009  
of the following, the court may award reasonable attorney's fees 1010  
to the relator, subject to division (C) (5) of this section: 1011

(i) The public office or the person responsible for the 1012  
public records failed to respond affirmatively or negatively to 1013  
the public records request in accordance with the time allowed 1014  
under division (B) of this section. 1015

(ii) The public office or the person responsible for the 1016  
public records promised to permit the relator to inspect or 1017  
receive copies of the public records requested within a 1018  
specified period of time but failed to fulfill that promise 1019  
within that specified period of time. 1020

(iii) The public office or the person responsible for the 1021  
public records acted in bad faith when the office or person 1022

voluntarily made the public records available to the relator for 1023  
the first time after the relator commenced the mandamus action, 1024  
but before the court issued any order concluding whether or not 1025  
the public office or person was required to comply with division 1026  
(B) of this section. No discovery may be conducted on the issue 1027  
of the alleged bad faith of the public office or person 1028  
responsible for the public records. This division shall not be 1029  
construed as creating a presumption that the public office or 1030  
the person responsible for the public records acted in bad faith 1031  
when the office or person voluntarily made the public records 1032  
available to the relator for the first time after the relator 1033  
commenced the mandamus action, but before the court issued any 1034  
order described in this division. 1035

(c) The court shall not award attorney's fees to the 1036  
relator if the court determines both of the following: 1037

(i) That, based on the ordinary application of statutory 1038  
law and case law as it existed at the time of the conduct or 1039  
threatened conduct of the public office or person responsible 1040  
for the requested public records that allegedly constitutes a 1041  
failure to comply with an obligation in accordance with division 1042  
(B) of this section and that was the basis of the mandamus 1043  
action, a well-informed public office or person responsible for 1044  
the requested public records reasonably would believe that the 1045  
conduct or threatened conduct of the public office or person 1046  
responsible for the requested public records did not constitute 1047  
a failure to comply with an obligation in accordance with 1048  
division (B) of this section; 1049

(ii) That a well-informed public office or person 1050  
responsible for the requested public records reasonably would 1051  
believe that the conduct or threatened conduct of the public 1052

office or person responsible for the requested public records 1053  
would serve the public policy that underlies the authority that 1054  
is asserted as permitting that conduct or threatened conduct. 1055

(5) All of the following apply to any award of reasonable 1056  
attorney's fees awarded under division (C) (4) (b) of this 1057  
section: 1058

(a) The fees shall be construed as remedial and not 1059  
punitive. 1060

(b) The fees awarded shall not exceed the total of the 1061  
reasonable attorney's fees incurred before the public record was 1062  
made available to the relator and the fees described in division 1063  
(C) (5) (c) of this section. 1064

(c) Reasonable attorney's fees shall include reasonable 1065  
fees incurred to produce proof of the reasonableness and amount 1066  
of the fees and to otherwise litigate entitlement to the fees. 1067

(d) The court may reduce the amount of fees awarded if the 1068  
court determines that, given the factual circumstances involved 1069  
with the specific public records request, an alternative means 1070  
should have been pursued to more effectively and efficiently 1071  
resolve the dispute that was subject to the mandamus action 1072  
filed under division (C) (1) of this section. 1073

(6) If the court does not issue a writ of mandamus under 1074  
division (C) of this section and the court determines at that 1075  
time that the bringing of the mandamus action was frivolous 1076  
conduct as defined in division (A) of section 2323.51 of the 1077  
Revised Code, the court may award to the public office all court 1078  
costs, expenses, and reasonable attorney's fees, as determined 1079  
by the court. 1080

(D) Chapter 1347. of the Revised Code does not limit the 1081

provisions of this section. 1082

(E) (1) To ensure that all employees of public offices are 1083  
appropriately educated about a public office's obligations under 1084  
division (B) of this section, all elected officials or their 1085  
appropriate designees shall attend training approved by the 1086  
attorney general as provided in section 109.43 of the Revised 1087  
Code. A future official may satisfy the requirements of this 1088  
division by attending the training before taking office, 1089  
provided that the future official may not send a designee in the 1090  
future official's place. 1091

(2) All public offices shall adopt a public records policy 1092  
in compliance with this section for responding to public records 1093  
requests. In adopting a public records policy under this 1094  
division, a public office may obtain guidance from the model 1095  
public records policy developed and provided to the public 1096  
office by the attorney general under section 109.43 of the 1097  
Revised Code. Except as otherwise provided in this section, the 1098  
policy may not limit the number of public records that the 1099  
public office will make available to a single person, may not 1100  
limit the number of public records that it will make available 1101  
during a fixed period of time, and may not establish a fixed 1102  
period of time before it will respond to a request for 1103  
inspection or copying of public records, unless that period is 1104  
less than eight hours. 1105

The public office shall distribute the public records 1106  
policy adopted by the public office under this division to the 1107  
employee of the public office who is the records custodian or 1108  
records manager or otherwise has custody of the records of that 1109  
office. The public office shall require that employee to 1110  
acknowledge receipt of the copy of the public records policy. 1111

The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F) (1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in division (F) (1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or

forward the copies for surveys, marketing, solicitation, or 1142  
resale for commercial purposes. "Bulk commercial special 1143  
extraction request" does not include a request by a person who 1144  
gives assurance to the bureau that the person making the request 1145  
does not intend to use or forward the requested copies for 1146  
surveys, marketing, solicitation, or resale for commercial 1147  
purposes. 1148

(c) "Commercial" means profit-seeking production, buying, 1149  
or selling of any good, service, or other product. 1150

(d) "Special extraction costs" means the cost of the time 1151  
spent by the lowest paid employee competent to perform the task, 1152  
the actual amount paid to outside private contractors employed 1153  
by the bureau, or the actual cost incurred to create computer 1154  
programs to make the special extraction. "Special extraction 1155  
costs" include any charges paid to a public agency for computer 1156  
or records services. 1157

(3) For purposes of divisions (F) (1) and (2) of this 1158  
section, "surveys, marketing, solicitation, or resale for 1159  
commercial purposes" shall be narrowly construed and does not 1160  
include reporting or gathering news, reporting or gathering 1161  
information to assist citizen oversight or understanding of the 1162  
operation or activities of government, or nonprofit educational 1163  
research. 1164

(G) A request by a defendant, counsel of a defendant, or 1165  
any agent of a defendant in a criminal action that public 1166  
records related to that action be made available under this 1167  
section shall be considered a demand for discovery pursuant to 1168  
the Criminal Rules, except to the extent that the Criminal Rules 1169  
plainly indicate a contrary intent. The defendant, counsel of 1170  
the defendant, or agent of the defendant making a request under 1171

this division shall serve a copy of the request on the 1172  
prosecuting attorney, director of law, or other chief legal 1173  
officer responsible for prosecuting the action. 1174

(H) (1) Any portion of a body-worn camera or dashboard 1175  
camera recording described in divisions (A) (17) (b) to (h) of 1176  
this section may be released by consent of the subject of the 1177  
recording or a representative of that person, as specified in 1178  
those divisions, only if either of the following applies: 1179

(a) The recording will not be used in connection with any 1180  
probable or pending criminal proceedings; 1181

(b) The recording has been used in connection with a 1182  
criminal proceeding that was dismissed or for which a judgment 1183  
has been entered pursuant to Rule 32 of the Rules of Criminal 1184  
Procedure, and will not be used again in connection with any 1185  
probable or pending criminal proceedings. 1186

(2) If a public office denies a request to release a 1187  
restricted portion of a body-worn camera or dashboard camera 1188  
recording, as defined in division (A) (17) of this section, any 1189  
person may file a mandamus action pursuant to this section or a 1190  
complaint with the clerk of the court of claims pursuant to 1191  
section 2743.75 of the Revised Code, requesting the court to 1192  
order the release of all or portions of the recording. If the 1193  
court considering the request determines that the filing 1194  
articulates by clear and convincing evidence that the public 1195  
interest in the recording substantially outweighs privacy 1196  
interests and other interests asserted to deny release, the 1197  
court shall order the public office to release the recording. 1198

**Sec. 2101.24.** ~~(A)(1)~~(A) "Criminal court" has the same 1199  
meaning as in section 5122.01 of the Revised Code. 1200

<u>(B) (1)</u> Except as otherwise provided by law, the probate court has exclusive jurisdiction:	1201 1202
(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.	1203 1204 1205 1206 1207 1208 1209
(b) To grant and revoke letters testamentary and of administration;	1210 1211
(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;	1212 1213 1214
(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;	1215 1216 1217
(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;	1218 1219 1220
(f) To grant marriage licenses;	1221
(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, as a result of intellectual disability, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;	1222 1223 1224 1225 1226 1227
(h) To qualify assignees, appoint and qualify trustees and	1228

commissioners of insolvents, control their conduct, and settle their accounts;	1229 1230
(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;	1231 1232 1233 1234
(j) To authorize the completion of real property contracts on petition of executors and administrators;	1235 1236
(k) To construe wills;	1237
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to Chapter 5817. of the Revised Code;	1238 1239 1240
(m) To direct and control the conduct of fiduciaries and settle their accounts;	1241 1242
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	1243 1244 1245
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	1246 1247
(p) To hear and determine actions to contest the validity of wills;	1248 1249
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	1250 1251 1252
(r) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	1253 1254
(s) To hear and determine actions against sureties on the	1255

bonds of fiduciaries appointed by the probate court; 1256

~~(t) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;~~ 1257  
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~~(u)~~ To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code; 1260  
1261  
1262

~~(v)~~ (u) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code; 1263  
1264  
1265

~~(w)~~ (v) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division; 1266  
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~~(x)~~ (w) To hear and determine applications that pertain to the withholding or withdrawal of nutrition and hydration from certain patients allegedly in a permanently unconscious state pursuant to section 2133.09 of the Revised Code, in accordance with that section; 1272  
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1275  
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~~(y)~~ (x) To hear and determine applications of attending physicians in accordance with division (B) of section 2133.15 of the Revised Code; 1277  
1278  
1279

~~(z)~~ (y) To hear and determine actions relative to the use or continuation of comfort care in connection with certain principals under durable powers of attorney for health care, declarants under declarations, or patients in accordance with division (E) of either section 1337.16 or 2133.12 of the Revised 1280  
1281  
1282  
1283  
1284

Code;	1285
<del>(aa)</del> <u>(z)</u> To hear and determine applications for an order relieving an estate from administration under section 2113.03 of the Revised Code;	1286 1287 1288
<del>(bb)</del> <u>(aa)</u> To hear and determine applications for an order granting a summary release from administration under section 2113.031 of the Revised Code;	1289 1290 1291
<del>(ee)</del> <u>(bb)</u> To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.90 of the Revised Code;	1292 1293 1294
<del>(dd)</del> <u>(cc)</u> To hear and determine actions relating to the disinterment and reinterment of human remains under section 517.23 of the Revised Code;	1295 1296 1297
<del>(ee)</del> <u>(dd)</u> To hear and determine petitions for an order for treatment of a person experiencing alcohol and other drug abuse filed under section 5119.93 of the Revised Code and to order treatment of that nature in accordance with, and take other actions afforded to the court under, sections 5119.90 to 5119.98 of the Revised Code;	1298 1299 1300 1301 1302 1303
<del>(ff)</del> <u>(ee)</u> To hear and determine petitions for adoption.	1304
(2) In addition to the exclusive jurisdiction conferred upon the probate court by division <del>(A)(1)</del> <u>(B)(1)</u> of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply:	1305 1306 1307 1308
(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court.	1309 1310
(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or	1311 1312

agency. 1313

~~(B) (1)~~ (C) (1) The probate court has concurrent jurisdiction 1314  
with, and the same powers at law and in equity as, the general 1315  
division of the court of common pleas to issue writs and orders, 1316  
and to hear and determine actions as follows: 1317

(a) If jurisdiction relative to a particular subject 1318  
matter is stated to be concurrent in a section of the Revised 1319  
Code or has been construed by judicial decision to be 1320  
concurrent, any action that involves that subject matter; 1321

(b) Any action that involves an inter vivos trust; a trust 1322  
created pursuant to section 5815.28 of the Revised Code; a 1323  
charitable trust or foundation; subject to ~~divisions (A) (1) (t)~~ 1324  
~~and (y)~~ division (B) (1) (x) of this section, a power of attorney, 1325  
including, but not limited to, a durable power of attorney; the 1326  
medical treatment of a competent adult; or a writ of habeas 1327  
corpus; 1328

(c) Subject to section 2101.31 of the Revised Code, any 1329  
action with respect to a probate estate, guardianship, trust, or 1330  
post-death dispute that involves any of the following: 1331

(i) A designation or removal of a beneficiary of a life 1332  
insurance policy, annuity contract, retirement plan, brokerage 1333  
account, security account, bank account, real property, or 1334  
tangible personal property; 1335

(ii) A designation or removal of a payable-on-death 1336  
beneficiary or transfer-on-death beneficiary; 1337

(iii) A change in the title to any asset involving a joint 1338  
and survivorship interest; 1339

(iv) An alleged gift; 1340

(v) The passing of assets upon the death of an individual 1341  
otherwise than by will, intestate succession, or trust. 1342

(2) Any action that involves a concurrent jurisdiction 1343  
subject matter and that is before the probate court may be 1344  
transferred by the probate court, on its order, to the general 1345  
division of the court of common pleas. 1346

(3) Notwithstanding that the probate court has exclusive 1347  
jurisdiction to render declaratory judgments under Chapter 5817. 1348  
of the Revised Code, the probate court may transfer the 1349  
proceeding to the general division of the court of common pleas 1350  
pursuant to division (A) of section 5817.04 of the Revised Code. 1351

~~(C)~~ (D) The probate court has concurrent jurisdiction with 1352  
the criminal court to hear and determine actions involving 1353  
informed consent for medication of persons hospitalized pursuant 1354  
to section 5122.141 or 5122.15 of the Revised Code. 1355

(E) The probate court has plenary power at law and in 1356  
equity to dispose fully of any matter that is properly before 1357  
the court, unless the power is expressly otherwise limited or 1358  
denied by a section of the Revised Code. 1359

~~(D)~~ (F) The jurisdiction acquired by a probate court over a 1360  
matter or proceeding is exclusive of that of any other probate 1361  
court, except when otherwise provided by law. 1362

**Sec. 2108.90.** Pursuant to division ~~(A)~~ (B) of section 1363  
2101.24 of the Revised Code, the probate court for the county in 1364  
which the declarant or deceased person resided at the time of 1365  
death or the county in which a living person whose post-death 1366  
arrangements are the subject of dispute resides shall have 1367  
exclusive jurisdiction over any action that results from 1368  
sections 2108.70 to 2108.89 of the Revised Code. 1369

**Sec. 2945.38.** (A) If the issue of a defendant's competence 1370  
to stand trial is raised and if the court, upon conducting the 1371  
hearing provided for in section 2945.37 of the Revised Code, 1372  
finds that the defendant is competent to stand trial, the 1373  
defendant shall be proceeded against as provided by law. If the 1374  
court finds the defendant competent to stand trial and the 1375  
defendant is receiving psychotropic drugs or other medication, 1376  
the court may authorize the continued administration of the 1377  
drugs or medication or other appropriate treatment in order to 1378  
maintain the defendant's competence to stand trial, unless the 1379  
defendant's attending physician advises the court against 1380  
continuation of the drugs, other medication, or treatment. 1381

(B) (1) (a) (i) If the defendant has been charged with a 1382  
felony offense or a misdemeanor offense of violence for which 1383  
the prosecutor has not recommended the procedures under division 1384  
(B) (1) (a) (vi) of this section and if, after taking into 1385  
consideration all relevant reports, information, and other 1386  
evidence, the court finds that the defendant is incompetent to 1387  
stand trial and that there is a substantial probability that the 1388  
defendant will become competent to stand trial within one year 1389  
if the defendant is provided with a course of treatment, the 1390  
court shall order the defendant to undergo treatment. 1391

(ii) If the defendant has been charged with a felony 1392  
offense and if, after taking into consideration all relevant 1393  
reports, information, and other evidence, the court finds that 1394  
the defendant is incompetent to stand trial, but the court is 1395  
unable at that time to determine whether there is a substantial 1396  
probability that the defendant will become competent to stand 1397  
trial within one year if the defendant is provided with a course 1398  
of treatment, the court shall order continuing evaluation and 1399  
treatment of the defendant for a period not to exceed four 1400

months to determine whether there is a substantial probability 1401  
that the defendant will become competent to stand trial within 1402  
one year if the defendant is provided with a course of 1403  
treatment. 1404

(iii) If the defendant has not been charged with a felony 1405  
offense but has been charged with a misdemeanor offense of 1406  
violence and if, after taking into consideration all relevant 1407  
reports, information, and other evidence, the court finds that 1408  
the defendant is incompetent to stand trial, but the court is 1409  
unable at that time to determine whether there is a substantial 1410  
probability that the defendant will become competent to stand 1411  
trial within the time frame permitted under division (C)(1) of 1412  
this section, the court may order continuing evaluation and 1413  
treatment of the defendant for a period not to exceed the 1414  
maximum period permitted under that division. 1415

(iv) If the defendant has not been charged with a felony 1416  
offense or a misdemeanor offense of violence, but has been 1417  
charged with a misdemeanor offense that is not a misdemeanor 1418  
offense of violence and if, after taking into consideration all 1419  
relevant reports, information, and other evidence, the court 1420  
finds that the defendant is incompetent to stand trial, but the 1421  
court is unable at that time to determine whether there is a 1422  
substantial probability that the defendant will become competent 1423  
to stand trial within the time frame permitted under division 1424  
(C)(1) of this section, the court shall dismiss the charges and 1425  
follow the process outlined in division (B)(1)(a)(v)(I) of this 1426  
section. 1427

(v) If the defendant has not been charged with a felony 1428  
offense or a misdemeanor offense of violence, or if the 1429  
defendant has been charged with a misdemeanor offense of 1430

violence and the prosecutor has recommended the procedures under 1431  
division (B) (1) (a) (vi) of this section, and if, after taking 1432  
into consideration all relevant reports, information, and other 1433  
evidence, the trial court finds that the defendant is 1434  
incompetent to stand trial, the trial court shall do one of the 1435  
following: 1436

(I) Dismiss the charges pending against the defendant. A 1437  
dismissal under this division is not a bar to further 1438  
prosecution based on the same conduct. Upon dismissal of the 1439  
charges, the trial court shall discharge the defendant unless 1440  
the court or prosecutor, after consideration of the requirements 1441  
of section 5122.11 of the Revised Code, files an affidavit in 1442  
probate court or trial court alleging that the defendant is a 1443  
mentally ill person subject to court order or after 1444  
consideration of the requirements of section 5123.71 of the 1445  
Revised Code, files an affidavit in the probate court or trial 1446  
court alleging that the defendant is a person with an 1447  
intellectual disability subject to institutionalization by court 1448  
order. If an affidavit is filed in probate court or trial court, 1449  
the trial court may detain the defendant for ten days pending a 1450  
hearing in the probate court ~~and~~ or trial court. If an affidavit 1451  
is filed in the probate court, the trial court shall send to the 1452  
probate court copies of all written reports of the defendant's 1453  
mental condition that were prepared pursuant to section 2945.371 1454  
of the Revised Code. The trial court or prosecutor shall specify 1455  
in the appropriate space on the affidavit that the defendant is 1456  
a person described in this subdivision. 1457

(II) Order the defendant to undergo outpatient competency 1458  
restoration treatment at a facility operated or certified by the 1459  
department of ~~mental health and addiction services~~ behavioral 1460  
health as being qualified to treat mental illness, at a public 1461

or community mental health facility, at a jail that employs or 1462  
contracts with an individual or entity listed in division (B) (1) 1463  
(b) (i) of this section to provide treatment or continuing 1464  
evaluation and treatment at a jail, or in the care of a 1465  
psychiatrist or other mental health professional. If a defendant 1466  
who has been released on bail or recognizance refuses to comply 1467  
with court-ordered outpatient treatment under this division, the 1468  
court may dismiss the charges pending against the defendant and 1469  
proceed under division (B) (1) (a) (v) (I) of this section or may 1470  
amend the conditions of bail or recognizance and order the 1471  
sheriff to take the defendant into custody and deliver the 1472  
defendant to a center or facility operated or certified by the 1473  
department of ~~mental health and addiction services~~ behavioral 1474  
health for treatment. 1475

(vi) If the defendant has not been charged with a felony 1476  
offense but has been charged with a misdemeanor offense of 1477  
violence and after taking into consideration all relevant 1478  
reports, information, and other evidence, the court finds that 1479  
the defendant is incompetent to stand trial, the prosecutor in 1480  
the case may recommend that the court follow the procedures 1481  
prescribed in division (B) (1) (a) (v) of this section. If the 1482  
prosecutor does not make such a recommendation, the court shall 1483  
follow the procedures in division (B) (1) (a) (i) of this section. 1484

(b) (i) The court order for the defendant to undergo 1485  
treatment or continuing evaluation and treatment under division 1486  
(B) (1) (a) of this section shall specify that the defendant, if 1487  
determined to require mental health treatment or continuing 1488  
evaluation and treatment, shall be committed to one of the 1489  
following: 1490

(I) The department of ~~mental health and addiction services~~ 1491

behavioral health for treatment or continuing evaluation and 1492  
treatment at a hospital, facility, or agency, as determined to 1493  
be clinically appropriate by the department; 1494

(II) A facility certified by the department of ~~mental-~~ 1495  
~~health and addiction~~ behavioral health services as being 1496  
qualified to treat mental illness; 1497

(III) A public or community mental health facility; 1498

(IV) A jail that employs or contracts with an entity or 1499  
individual listed in division (B) (1) (b) (i) of this section to 1500  
provide treatment or continuing evaluation and treatment at a 1501  
jail; 1502

(V) A psychiatrist or another mental health professional 1503  
for treatment or continuing evaluation and treatment. 1504

(ii) Prior to placing the defendant, the department of 1505  
~~mental health and addiction services~~ behavioral health shall 1506  
obtain court approval for that placement following a hearing. 1507  
The court order for the defendant to undergo treatment or 1508  
continuing evaluation and treatment under division (B) (1) (a) of 1509  
this section shall specify that the defendant, if determined to 1510  
require treatment or continuing evaluation and treatment for an 1511  
intellectual disability, shall receive treatment or continuing 1512  
evaluation and treatment at an institution or facility operated 1513  
by the department of developmental disabilities, at a facility 1514  
certified by the department of developmental disabilities as 1515  
being qualified to treat intellectual disabilities, at a public 1516  
or private intellectual disabilities facility, or by a 1517  
psychiatrist or another intellectual disabilities professional. 1518  
In any case, the order may restrict the defendant's freedom of 1519  
movement as the court considers necessary. The prosecutor in the 1520

defendant's case shall send to the chief clinical officer of the 1521  
hospital, facility, or agency where the defendant is placed by 1522  
the department of ~~mental health and addiction services~~behavioral 1523  
health, or to the managing officer or director of the 1524  
institution, facility, or jail, or the person to which the 1525  
defendant is committed, copies of relevant police reports and 1526  
other background information that pertains to the defendant and 1527  
is available to the prosecutor unless the prosecutor determines 1528  
that the release of any of the information in the police reports 1529  
or any of the other background information to unauthorized 1530  
persons would interfere with the effective prosecution of any 1531  
person or would create a substantial risk of harm to any person. 1532

(iii) In determining the place of commitment, the court 1533  
shall consider the extent to which the person is a danger to the 1534  
person and to others, the need for security, the availability of 1535  
housing and supportive services, including outpatient mental 1536  
health services in the community, and the type of crime involved 1537  
and shall order the least restrictive alternative available that 1538  
is consistent with public safety and treatment goals. In 1539  
weighing these factors, the court shall give preference to 1540  
protecting public safety and the availability of housing and 1541  
supportive services. 1542

(c) If the defendant is found incompetent to stand trial, 1543  
if the chief clinical officer of the hospital, facility, or 1544  
agency where the defendant is placed, or the managing officer or 1545  
director of the institution, facility, or jail, or the person to 1546  
which the defendant is committed for treatment or continuing 1547  
evaluation and treatment under division (B) (1) (b) of this 1548  
section determines that medication is necessary to restore the 1549  
defendant's competency to stand trial, and if the defendant 1550  
lacks the capacity to give informed consent or refuses 1551

medication, the chief clinical officer of the hospital, 1552  
facility, or agency where the defendant is placed, or the 1553  
managing officer or director of the institution, facility, or 1554  
jail, or the person to which the defendant is committed for 1555  
treatment or continuing evaluation and treatment may petition 1556  
the court for authorization for the involuntary administration 1557  
of medication. The court shall hold a hearing on the petition 1558  
within five days of the filing of the petition if the petition 1559  
was filed in a municipal court or a county court regarding an 1560  
incompetent defendant charged with a misdemeanor or within ten 1561  
days of the filing of the petition if the petition was filed in 1562  
a court of common pleas regarding an incompetent defendant 1563  
charged with a felony offense. Following the hearing, the court 1564  
may authorize the involuntary administration of medication or 1565  
may dismiss the petition. 1566

(2) If the court finds that the defendant is incompetent 1567  
to stand trial and that, even if the defendant is provided with 1568  
a course of treatment, there is not a substantial probability 1569  
that the defendant will become competent to stand trial within 1570  
one year, the court shall order the discharge of the defendant, 1571  
unless upon motion of the prosecutor or on its own motion, the 1572  
court either seeks to retain jurisdiction over the defendant 1573  
pursuant to section 2945.39 of the Revised Code or files an 1574  
affidavit in the probate court or trial court for the civil 1575  
commitment of the defendant pursuant to Chapter 5122. or 5123. 1576  
of the Revised Code alleging that the defendant is a person with 1577  
a mental illness subject to court order or a person with an 1578  
intellectual disability subject to institutionalization by court 1579  
order. If an affidavit is filed in the probate court, the trial 1580  
court shall send to the probate court copies of all written 1581  
reports of the defendant's mental condition that were prepared 1582

pursuant to section 2945.371 of the Revised Code. 1583

~~The trial court may issue the temporary order of detention 1584  
that a probate court may issue under section 5122.11 or 5123.71 1585  
of the Revised Code, to remain in effect until the probable 1586  
cause or initial hearing in the probate court. Further 1587  
proceedings in the probate court are civil proceedings governed 1588  
by Chapter 5122. or 5123. of the Revised Code. 1589~~

(C) No defendant shall be required to undergo treatment, 1590  
including any continuing evaluation and treatment, under 1591  
division (B) (1) of this section for longer than whichever of the 1592  
following periods is applicable: 1593

(1) One year, if the most serious offense with which the 1594  
defendant is charged is one of the following offenses: 1595

(a) Aggravated murder, murder, or an offense of violence 1596  
for which a sentence of death or life imprisonment may be 1597  
imposed; 1598

(b) An offense of violence that is a felony of the first 1599  
or second degree; 1600

(c) A conspiracy to commit, an attempt to commit, or 1601  
complicity in the commission of an offense described in division 1602  
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 1603  
complicity is a felony of the first or second degree. 1604

(2) Six months, if the most serious offense with which the 1605  
defendant is charged is a felony other than a felony described 1606  
in division (C) (1) of this section; 1607

(3) Sixty days, if the most serious offense with which the 1608  
defendant is charged is a misdemeanor of the first or second 1609  
degree; 1610

(4) Thirty days, if the most serious offense with which 1611  
the defendant is charged is a misdemeanor of the third or fourth 1612  
degree, a minor misdemeanor, or an unclassified misdemeanor. 1613

(D) Any defendant who is committed pursuant to this 1614  
section shall not voluntarily admit the defendant or be 1615  
voluntarily admitted to a hospital or institution pursuant to 1616  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 1617  
Code. 1618

(E) Except as otherwise provided in this division, a 1619  
defendant who is charged with an offense and is committed by the 1620  
court under this section to the department of ~~mental health and~~ 1621  
~~addiction services~~ behavioral health or is committed to an 1622  
institution or facility for the treatment of intellectual 1623  
disabilities shall not be granted unsupervised on-grounds 1624  
movement, supervised off-grounds movement, or nonsecured status 1625  
except in accordance with the court order. The court may grant a 1626  
defendant supervised off-grounds movement to obtain medical 1627  
treatment or specialized habilitation treatment services if the 1628  
person who supervises the treatment or the continuing evaluation 1629  
and treatment of the defendant ordered under division (B) (1) (a) 1630  
of this section informs the court that the treatment or 1631  
continuing evaluation and treatment cannot be provided at the 1632  
hospital or facility where the defendant is placed by the 1633  
department of ~~mental health and addiction services~~ behavioral 1634  
health or the institution, facility, or jail to which the 1635  
defendant is committed. The chief clinical officer of the 1636  
hospital or facility where the defendant is placed by the 1637  
department of ~~mental health and addiction services~~ behavioral 1638  
health or the managing officer or director of the institution, 1639  
facility, or jail to which the defendant is committed, or a 1640  
designee of any of those persons, may grant a defendant movement 1641

to a medical facility for an emergency medical situation with 1642  
appropriate supervision to ensure the safety of the defendant, 1643  
staff, and community during that emergency medical situation. 1644  
The chief clinical officer of the hospital or facility where the 1645  
defendant is placed by the department of ~~mental health and~~ 1646  
~~addiction services~~ behavioral health or the managing officer or 1647  
director of the institution, facility, or jail to which the 1648  
defendant is committed shall notify the court within twenty-four 1649  
hours of the defendant's movement to the medical facility for an 1650  
emergency medical situation under this division. 1651

(F) The person who supervises the treatment or continuing 1652  
evaluation and treatment of a defendant ordered to undergo 1653  
treatment or continuing evaluation and treatment under division 1654  
(B) (1) (a) of this section shall file a written report with the 1655  
court at the following times: 1656

(1) Whenever the person believes the defendant is capable 1657  
of understanding the nature and objective of the proceedings 1658  
against the defendant and of assisting in the defendant's 1659  
defense; 1660

(2) For a felony offense, fourteen days before expiration 1661  
of the maximum time for treatment as specified in division (C) 1662  
of this section and fourteen days before the expiration of the 1663  
maximum time for continuing evaluation and treatment as 1664  
specified in division (B) (1) (a) of this section, and, for a 1665  
misdemeanor offense, ten days before the expiration of the 1666  
maximum time for treatment, as specified in division (C) of this 1667  
section; 1668

(3) At a minimum, after each six months of treatment; 1669

(4) Whenever the person who supervises the treatment or 1670

continuing evaluation and treatment of a defendant ordered under 1671  
division (B) (1) (a) of this section believes that there is not a 1672  
substantial probability that the defendant will become capable 1673  
of understanding the nature and objective of the proceedings 1674  
against the defendant or of assisting in the defendant's defense 1675  
even if the defendant is provided with a course of treatment. 1676

(G) A report under division (F) of this section shall 1677  
contain the examiner's findings, the facts in reasonable detail 1678  
on which the findings are based, and the examiner's opinion as 1679  
to the defendant's capability of understanding the nature and 1680  
objective of the proceedings against the defendant and of 1681  
assisting in the defendant's defense. If, in the examiner's 1682  
opinion, the defendant remains incapable of understanding the 1683  
nature and objective of the proceedings against the defendant 1684  
and of assisting in the defendant's defense and there is a 1685  
substantial probability that the defendant will become capable 1686  
of understanding the nature and objective of the proceedings 1687  
against the defendant and of assisting in the defendant's 1688  
defense if the defendant is provided with a course of treatment, 1689  
if in the examiner's opinion the defendant continues to have a 1690  
mental illness or an intellectual disability, and if the maximum 1691  
time for treatment as specified in division (C) of this section 1692  
has not expired, the report also shall contain the examiner's 1693  
recommendation as to the least restrictive placement or 1694  
commitment alternative that is consistent with the defendant's 1695  
treatment needs for restoration to competency and with the 1696  
safety of the community. The court shall provide copies of the 1697  
report to the prosecutor and defense counsel. 1698

(H) If a defendant is committed pursuant to division (B) 1699  
(1) of this section, within ten days after the treating 1700  
physician of the defendant or the examiner of the defendant who 1701

is employed or retained by the treating facility advises that 1702  
there is not a substantial probability that the defendant will 1703  
become capable of understanding the nature and objective of the 1704  
proceedings against the defendant or of assisting in the 1705  
defendant's defense even if the defendant is provided with a 1706  
course of treatment, within ten days after the expiration of the 1707  
maximum time for treatment as specified in division (C) of this 1708  
section, within ten days after the expiration of the maximum 1709  
time for continuing evaluation and treatment as specified in 1710  
division (B) (1) (a) of this section, within thirty days after a 1711  
defendant's request for a hearing that is made after six months 1712  
of treatment, or within thirty days after being advised by the 1713  
treating physician or examiner that the defendant is competent 1714  
to stand trial, whichever is the earliest, the court shall 1715  
conduct another hearing to determine if the defendant is 1716  
competent to stand trial and shall do whichever of the following 1717  
is applicable: 1718

(1) If the court finds that the defendant is competent to 1719  
stand trial, the defendant shall be proceeded against as 1720  
provided by law. 1721

(2) If the court finds that the defendant is incompetent 1722  
to stand trial, but that there is a substantial probability that 1723  
the defendant will become competent to stand trial if the 1724  
defendant is provided with a course of treatment, and the 1725  
maximum time for treatment as specified in division (C) of this 1726  
section has not expired, the court, after consideration of the 1727  
examiner's recommendation, shall order that treatment be 1728  
continued, may change the facility or location at which the 1729  
treatment is to be continued, and shall specify whether the 1730  
treatment is to be continued at the same or a different facility 1731  
or location. 1732

(3) If the court finds that the defendant is incompetent 1733  
to stand trial, if the defendant is charged with an offense 1734  
listed in division (C)(1) of this section, and if the court 1735  
finds that there is not a substantial probability that the 1736  
defendant will become competent to stand trial even if the 1737  
defendant is provided with a course of treatment, or if the 1738  
maximum time for treatment relative to that offense as specified 1739  
in division (C) of this section has expired, further proceedings 1740  
shall be as provided in sections 2945.39, 2945.401, and 2945.402 1741  
of the Revised Code. 1742

(4) If the court finds that the defendant is incompetent 1743  
to stand trial, if the most serious offense with which the 1744  
defendant is charged is a misdemeanor or a felony other than a 1745  
felony listed in division (C)(1) of this section, and if the 1746  
court finds that there is not a substantial probability that the 1747  
defendant will become competent to stand trial even if the 1748  
defendant is provided with a course of treatment, or if the 1749  
maximum time for treatment relative to that offense as specified 1750  
in division (C) of this section has expired, the court shall 1751  
dismiss the indictment, information, or complaint against the 1752  
defendant. A dismissal under this division is not a bar to 1753  
further prosecution based on the same conduct. The court shall 1754  
discharge the defendant unless the court or prosecutor files an 1755  
affidavit in probate court or with the trial court for civil 1756  
commitment pursuant to Chapter 5122. or 5123. of the Revised 1757  
Code. If an affidavit for civil commitment is filed, the court 1758  
may detain the defendant for ten days pending civil commitment- 1759  
~~and~~. If an affidavit is filed in the probate court, the trial 1760  
court shall send to the probate court copies of all written 1761  
reports of the defendant's mental condition prepared pursuant to 1762  
section 2945.371 of the Revised Code. 1763

All of the following provisions apply to persons charged 1764  
with a misdemeanor or a felony other than a felony listed in 1765  
division (C)(1) of this section who are committed by the probate 1766  
court subsequent to the court's or prosecutor's filing of an 1767  
affidavit for civil commitment under authority of this division: 1768

(a) The chief clinical officer of the entity, hospital, or 1769  
facility, the managing officer or director of the institution, 1770  
facility, or jail, or the person to which the defendant is 1771  
committed or admitted shall do all of the following: 1772

(i) Notify the prosecutor, in writing, of the discharge of 1773  
the defendant, send the notice at least ten days prior to the 1774  
discharge unless the discharge is by the probate court, and 1775  
state in the notice the date on which the defendant will be 1776  
discharged; 1777

(ii) Notify the prosecutor, in writing, when the defendant 1778  
is absent without leave or is granted unsupervised, off-grounds 1779  
movement, and send this notice promptly after the discovery of 1780  
the absence without leave or prior to the granting of the 1781  
unsupervised, off-grounds movement, whichever is applicable; 1782

(iii) Notify the prosecutor, in writing, of the change of 1783  
the defendant's commitment or admission to voluntary status, 1784  
send the notice promptly upon learning of the change to 1785  
voluntary status, and state in the notice the date on which the 1786  
defendant was committed or admitted on a voluntary status. 1787

(b) Upon receiving notice that the defendant will be 1788  
granted unsupervised, off-grounds movement, the prosecutor 1789  
either shall re-indict the defendant or promptly notify the 1790  
court that the prosecutor does not intend to prosecute the 1791  
charges against the defendant. 1792

(I) If a defendant is convicted of a crime and sentenced 1793  
to a jail, the defendant's sentence shall be reduced by the 1794  
total number of days the defendant is confined for evaluation to 1795  
determine the defendant's competence to stand trial or treatment 1796  
under this section and sections 2945.37 and 2945.371 of the 1797  
Revised Code or by the total number of days the defendant is 1798  
confined for evaluation to determine the defendant's mental 1799  
condition at the time of the offense charged. 1800

**Sec. 2945.39.** (A) If a defendant who is charged with an 1801  
offense described in division (C) (1) of section 2945.38 of the 1802  
Revised Code is found incompetent to stand trial, after the 1803  
expiration of the maximum time for treatment as specified in 1804  
division (C) of that section or after the court finds that there 1805  
is not a substantial probability that the defendant will become 1806  
competent to stand trial even if the defendant is provided with 1807  
a course of treatment, one of the following applies: 1808

(1) The court or the prosecutor may file an affidavit in 1809  
probate court or with the trial court for civil commitment of 1810  
the defendant in the manner provided in Chapter 5122. or 5123. 1811  
of the Revised Code. If the court or prosecutor files an 1812  
affidavit for civil commitment, the court may detain the 1813  
defendant for ten days pending civil commitment. If the probate 1814  
court or trial court commits the defendant subsequent to the 1815  
court's or prosecutor's filing of an affidavit for civil 1816  
commitment, the chief clinical officer of the entity, hospital, 1817  
or facility, the managing officer of the institution, the 1818  
director of the program, or the person to which the defendant is 1819  
committed or admitted shall send to the prosecutor the notices 1820  
described in divisions (H) (4) (a) (i) to (iii) of section 2945.38 1821  
of the Revised Code within the periods of time and under the 1822  
circumstances specified in those divisions. 1823

(2) On the motion of the prosecutor or on its own motion, 1824  
the court may retain jurisdiction over the defendant if, at a 1825  
hearing, the court finds both of the following by clear and 1826  
convincing evidence: 1827

(a) The defendant committed the offense with which the 1828  
defendant is charged. 1829

(b) The defendant is a person with a mental illness 1830  
subject to court order or a person with an intellectual 1831  
disability subject to institutionalization by court order. 1832

(B) In making its determination under division (A) (2) of 1833  
this section as to whether to retain jurisdiction over the 1834  
defendant, the court may consider all relevant evidence, 1835  
including, but not limited to, any relevant psychiatric, 1836  
psychological, or medical testimony or reports, the acts 1837  
constituting the offense charged, and any history of the 1838  
defendant that is relevant to the defendant's ability to conform 1839  
to the law. 1840

(C) If the court conducts a hearing as described in 1841  
division (A) (2) of this section and if the court does not make 1842  
both findings described in divisions (A) (2) (a) and (b) of this 1843  
section by clear and convincing evidence, the court shall 1844  
dismiss the indictment, information, or complaint against the 1845  
defendant. Upon the dismissal, the court shall discharge the 1846  
defendant unless the court or prosecutor files an affidavit in 1847  
probate court or with the trial court for civil commitment of 1848  
the defendant pursuant to Chapter 5122. or 5123. of the Revised 1849  
Code. If the court or prosecutor files an affidavit for civil 1850  
commitment, the court may order that the defendant be detained 1851  
for up to ten days pending the civil commitment. If the probate 1852  
court or trial court commits the defendant subsequent to the 1853

court's or prosecutor's filing of an affidavit for civil 1854  
commitment, the chief clinical officer of the entity, hospital, 1855  
or facility, the managing officer of the institution, the 1856  
director of the program, or the person to which the defendant is 1857  
committed or admitted shall send to the prosecutor the notices 1858  
described in divisions (H) (4) (a) (i) to (iii) of section 2945.38 1859  
of the Revised Code within the periods of time and under the 1860  
circumstances specified in those divisions. A dismissal of 1861  
charges under this division is not a bar to further criminal 1862  
proceedings based on the same conduct. 1863

(D) (1) If the court conducts a hearing as described in 1864  
division (A) (2) of this section and if the court makes the 1865  
findings described in divisions (A) (2) (a) and (b) of this 1866  
section by clear and convincing evidence, the court shall commit 1867  
the defendant, if determined to require mental health treatment, 1868  
either to the department of ~~mental health and addiction services~~ 1869  
behavioral health for treatment at a hospital, facility, or 1870  
agency as determined clinically appropriate by the department of 1871  
~~mental health and addiction services~~ behavioral health or to 1872  
another medical or psychiatric facility, as appropriate. Prior 1873  
to placing the defendant, the department of ~~mental health and~~ 1874  
~~addiction services~~ behavioral health shall obtain court approval 1875  
for that placement. If the court conducts such a hearing and if 1876  
it makes those findings by clear and convincing evidence, the 1877  
court shall commit the defendant, if determined to require 1878  
treatment for an intellectual disability, to a facility operated 1879  
by the department of developmental disabilities, or another 1880  
facility, as appropriate. In determining the place of 1881  
commitment, the court shall consider the extent to which the 1882  
person is a danger to the person and to others, the need for 1883  
security, and the type of crime involved and shall order the 1884

least restrictive alternative available that is consistent with 1885  
public safety and the welfare of the defendant. In weighing 1886  
these factors, the court shall give preference to protecting 1887  
public safety. 1888

(2) If a court makes a commitment of a defendant under 1889  
division (D)(1) of this section, the prosecutor shall send to 1890  
the hospital, facility, or agency where the defendant is placed 1891  
by the department of ~~mental health and addiction services~~ 1892  
behavioral health or to the defendant's place of commitment all 1893  
reports of the defendant's current mental condition and, except 1894  
as otherwise provided in this division, any other relevant 1895  
information, including, but not limited to, a transcript of the 1896  
hearing held pursuant to division (A)(2) of this section, copies 1897  
of relevant police reports, and copies of any prior arrest and 1898  
conviction records that pertain to the defendant and that the 1899  
prosecutor possesses. The prosecutor shall send the reports of 1900  
the defendant's current mental condition in every case of 1901  
commitment, and, unless the prosecutor determines that the 1902  
release of any of the other relevant information to unauthorized 1903  
persons would interfere with the effective prosecution of any 1904  
person or would create a substantial risk of harm to any person, 1905  
the prosecutor also shall send the other relevant information. 1906  
Upon admission of a defendant committed under division (D)(1) of 1907  
this section, the place of commitment shall send to the board of 1908  
alcohol, drug addiction, and mental health services or the 1909  
community mental health board serving the county in which the 1910  
charges against the defendant were filed a copy of all reports 1911  
of the defendant's current mental condition and a copy of the 1912  
other relevant information provided by the prosecutor under this 1913  
division, including, if provided, a transcript of the hearing 1914  
held pursuant to division (A)(2) of this section, the relevant 1915

police reports, and the prior arrest and conviction records that 1916  
pertain to the defendant and that the prosecutor possesses. 1917

(3) If a court makes a commitment under division (D) (1) of 1918  
this section, all further proceedings shall be in accordance 1919  
with sections 2945.401 and 2945.402 of the Revised Code. 1920

**Sec. 2945.401.** (A) A defendant found incompetent to stand 1921  
trial and committed pursuant to section 2945.39 of the Revised 1922  
Code or a person found not guilty by reason of insanity and 1923  
committed pursuant to section 2945.40 of the Revised Code shall 1924  
remain subject to the jurisdiction of the trial court pursuant 1925  
to that commitment, and to the provisions of this section, until 1926  
the final termination of the commitment as described in division 1927  
(J) (1) of this section. If the jurisdiction is terminated under 1928  
this division because of the final termination of the commitment 1929  
resulting from the expiration of the maximum prison term or term 1930  
of imprisonment described in division (J) (1) (b) of this section, 1931  
the court or prosecutor may file an affidavit for the civil 1932  
commitment of the defendant or person pursuant to Chapter 5122. 1933  
or 5123. of the Revised Code. 1934

(B) ~~A hearing conducted under any provision of sections~~ 1935  
~~2945.37 to 2945.402 of the Revised Code shall not be conducted~~ 1936  
~~in accordance with Chapters 5122. and 5123. of the Revised Code.~~ 1937  
Any person who is committed pursuant to section 2945.39 or 1938  
2945.40 of the Revised Code shall not voluntarily admit the 1939  
person or be voluntarily admitted to a hospital or institution 1940  
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 1941  
Revised Code. All other provisions of Chapters 5122. and 5123. 1942  
of the Revised Code regarding hospitalization or 1943  
institutionalization shall apply to the extent they are not in 1944  
conflict with this chapter. A commitment under section 2945.39 1945

or 2945.40 of the Revised Code shall not be terminated and the 1946  
conditions of the commitment shall not be changed except as 1947  
otherwise provided in division (D) (2) of this section with 1948  
respect to a person with an intellectual disability subject to 1949  
institutionalization by court order or except by order of the 1950  
trial court. 1951

(C) The department of ~~mental health and addiction services~~ 1952  
behavioral health or the institution, facility, or program to 1953  
which a defendant or person has been committed under section 1954  
2945.39 or 2945.40 of the Revised Code shall report in writing 1955  
to the trial court, at the times specified in this division, as 1956  
to whether the defendant or person remains a person with a 1957  
mental illness subject to court order or a person with an 1958  
intellectual disability subject to institutionalization by court 1959  
order and, in the case of a defendant committed under section 1960  
2945.39 of the Revised Code, as to whether the defendant remains 1961  
incompetent to stand trial. The department, institution, 1962  
facility, or program shall make the reports after the initial 1963  
six months of treatment and every two years after the initial 1964  
report is made. The trial court shall provide copies of the 1965  
reports to the prosecutor and to the counsel for the defendant 1966  
or person. Within thirty days after its receipt pursuant to this 1967  
division of a report from the department, institution, facility, 1968  
or program, the trial court shall hold a hearing on the 1969  
continued commitment of the defendant or person or on any 1970  
changes in the conditions of the commitment of the defendant or 1971  
person. The defendant or person may request a change in the 1972  
conditions of confinement, and the trial court shall conduct a 1973  
hearing on that request if six months or more have elapsed since 1974  
the most recent hearing was conducted under this section. 1975

(D) (1) Except as otherwise provided in division (D) (2) of 1976

this section, when a defendant or person has been committed 1977  
under section 2945.39 or 2945.40 of the Revised Code, at any 1978  
time after evaluating the risks to public safety and the welfare 1979  
of the defendant or person, the designee of the department of 1980  
~~mental health and addiction services~~ behavioral health or the 1981  
managing officer of the institution or director of the facility 1982  
or program to which the defendant or person is committed may 1983  
recommend a termination of the defendant's or person's 1984  
commitment or a change in the conditions of the defendant's or 1985  
person's commitment. 1986

Except as otherwise provided in division (D)(2) of this 1987  
section, if the designee of the department of ~~mental health and~~ 1988  
~~addiction services~~ behavioral health recommends on-grounds 1989  
unsupervised movement, off-grounds supervised movement, or 1990  
nonsecured status for the defendant or person or termination of 1991  
the defendant's or person's commitment, the following provisions 1992  
apply: 1993

(a) If the department's designee recommends on-grounds 1994  
unsupervised movement or off-grounds supervised movement, the 1995  
department's designee shall file with the trial court an 1996  
application for approval of the movement and shall send a copy 1997  
of the application to the prosecutor. Within fifteen days after 1998  
receiving the application, the prosecutor may request a hearing 1999  
on the application and, if a hearing is requested, shall so 2000  
inform the department's designee. If the prosecutor does not 2001  
request a hearing within the fifteen-day period, the trial court 2002  
shall approve the application by entering its order approving 2003  
the requested movement or, within five days after the expiration 2004  
of the fifteen-day period, shall set a date for a hearing on the 2005  
application. If the prosecutor requests a hearing on the 2006  
application within the fifteen-day period, the trial court shall 2007

hold a hearing on the application within thirty days after the 2008  
hearing is requested. If the trial court, within five days after 2009  
the expiration of the fifteen-day period, sets a date for a 2010  
hearing on the application, the trial court shall hold the 2011  
hearing within thirty days after setting the hearing date. At 2012  
least fifteen days before any hearing is held under this 2013  
division, the trial court shall give the prosecutor written 2014  
notice of the date, time, and place of the hearing. At the 2015  
conclusion of each hearing conducted under this division, the 2016  
trial court either shall approve or disapprove the application 2017  
and shall enter its order accordingly. 2018

(b) If the department's designee recommends termination of 2019  
the defendant's or person's commitment at any time or if the 2020  
department's designee recommends the first of any nonsecured 2021  
status for the defendant or person, the department's designee 2022  
shall send written notice of this recommendation to the trial 2023  
court and to the local forensic center. The local forensic 2024  
center shall evaluate the committed defendant or person and, 2025  
within thirty days after its receipt of the written notice, 2026  
shall submit to the trial court and the department's designee a 2027  
written report of the evaluation. The trial court shall provide 2028  
a copy of the department's designee's written notice and of the 2029  
local forensic center's written report to the prosecutor and to 2030  
the counsel for the defendant or person. Upon the local forensic 2031  
center's submission of the report to the trial court and the 2032  
department's designee, all of the following apply: 2033

(i) If the forensic center disagrees with the 2034  
recommendation of the department's designee, it shall inform the 2035  
department's designee and the trial court of its decision and 2036  
the reasons for the decision. The department's designee, after 2037  
consideration of the forensic center's decision, shall either 2038

withdraw, proceed with, or modify and proceed with the 2039  
recommendation. If the department's designee proceeds with, or 2040  
modifies and proceeds with, the recommendation, the department's 2041  
designee shall proceed in accordance with division (D) (1) (b) 2042  
(iii) of this section. 2043

(ii) If the forensic center agrees with the recommendation 2044  
of the department's designee, it shall inform the department's 2045  
designee and the trial court of its decision and the reasons for 2046  
the decision, and the department's designee shall proceed in 2047  
accordance with division (D) (1) (b) (iii) of this section. 2048

(iii) If the forensic center disagrees with the 2049  
recommendation of the department's designee and the department's 2050  
designee proceeds with, or modifies and proceeds with, the 2051  
recommendation or if the forensic center agrees with the 2052  
recommendation of the department's designee, the department's 2053  
designee shall work with community mental health services 2054  
providers, programs, facilities, or boards of alcohol, drug 2055  
addiction, and mental health services or community mental health 2056  
boards to develop a plan to implement the recommendation. If the 2057  
defendant or person is on medication, the plan shall include, 2058  
but shall not be limited to, a system to monitor the defendant's 2059  
or person's compliance with the prescribed medication treatment 2060  
plan. The system shall include a schedule that clearly states 2061  
when the defendant or person shall report for a medication 2062  
compliance check. The medication compliance checks shall be 2063  
based upon the effective duration of the prescribed medication, 2064  
taking into account the route by which it is taken, and shall be 2065  
scheduled at intervals sufficiently close together to detect a 2066  
potential increase in mental illness symptoms that the 2067  
medication is intended to prevent. 2068

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

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

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

(d) The trial court shall schedule the hearing on a department's designee's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request or for other good cause, the hearing shall be held within thirty days after the trial court's receipt of the recommendation and plan.

(2) (a) Division (D) (1) of this section does not apply to on-grounds unsupervised movement of a defendant or person who has been committed under section 2945.39 or 2945.40 of the

Revised Code, who is a person with an intellectual disability 2099  
subject to institutionalization by court order, and who is being 2100  
provided residential habilitation, care, and treatment in a 2101  
facility operated by the department of developmental 2102  
disabilities. 2103

(b) If, pursuant to section 2945.39 of the Revised Code, 2104  
the trial court commits a defendant who is found incompetent to 2105  
stand trial and who is a person with an intellectual disability 2106  
subject to institutionalization by court order, if the defendant 2107  
is being provided residential habilitation, care, and treatment 2108  
in a facility operated by the department of developmental 2109  
disabilities, if an individual who is conducting a survey for 2110  
the department of health to determine the facility's compliance 2111  
with the certification requirements of the medicaid program 2112  
cites the defendant's receipt of the residential habilitation, 2113  
care, and treatment in the facility as being inappropriate under 2114  
the certification requirements, if the defendant's receipt of 2115  
the residential habilitation, care, and treatment in the 2116  
facility potentially jeopardizes the facility's continued 2117  
receipt of federal medicaid moneys, and if as a result of the 2118  
citation the chief clinical officer of the facility determines 2119  
that the conditions of the defendant's commitment should be 2120  
changed, the department of developmental disabilities may cause 2121  
the defendant to be removed from the particular facility and, 2122  
after evaluating the risks to public safety and the welfare of 2123  
the defendant and after determining whether another type of 2124  
placement is consistent with the certification requirements, may 2125  
place the defendant in another facility that the department 2126  
selects as an appropriate facility for the defendant's continued 2127  
receipt of residential habilitation, care, and treatment and 2128  
that is a no less secure setting than the facility in which the 2129

defendant had been placed at the time of the citation. Within 2130  
three days after the defendant's removal and alternative 2131  
placement under the circumstances described in division (D) (2) 2132  
(b) of this section, the department of developmental 2133  
disabilities shall notify the trial court and the prosecutor in 2134  
writing of the removal and alternative placement. 2135

The trial court shall set a date for a hearing on the 2136  
removal and alternative placement, and the hearing shall be held 2137  
within twenty-one days after the trial court's receipt of the 2138  
notice from the department of developmental disabilities. At 2139  
least ten days before the hearing is held, the trial court shall 2140  
give the prosecutor, the department of developmental 2141  
disabilities, and the counsel for the defendant written notice 2142  
of the date, time, and place of the hearing. At the hearing, the 2143  
trial court shall consider the citation issued by the individual 2144  
who conducted the survey for the department of health to be 2145  
prima-facie evidence of the fact that the defendant's commitment 2146  
to the particular facility was inappropriate under the 2147  
certification requirements of the medicaid program and 2148  
potentially jeopardizes the particular facility's continued 2149  
receipt of federal medicaid moneys. At the conclusion of the 2150  
hearing, the trial court may approve or disapprove the 2151  
defendant's removal and alternative placement. If the trial 2152  
court approves the defendant's removal and alternative 2153  
placement, the department of developmental disabilities may 2154  
continue the defendant's alternative placement. If the trial 2155  
court disapproves the defendant's removal and alternative 2156  
placement, it shall enter an order modifying the defendant's 2157  
removal and alternative placement, but that order shall not 2158  
require the department of developmental disabilities to replace 2159  
the defendant for purposes of continued residential 2160

habilitation, care, and treatment in the facility associated 2161  
with the citation issued by the individual who conducted the 2162  
survey for the department of health. 2163

(E) In making a determination under this section regarding 2164  
nonsecured status or termination of commitment, the trial court 2165  
shall consider all relevant factors, including, but not limited 2166  
to, all of the following: 2167

(1) Whether, in the trial court's view, the defendant or 2168  
person currently represents a substantial risk of physical harm 2169  
to the defendant or person or others; 2170

(2) Psychiatric and medical testimony as to the current 2171  
mental and physical condition of the defendant or person; 2172

(3) Whether the defendant or person has insight into the 2173  
defendant's or person's condition so that the defendant or 2174  
person will continue treatment as prescribed or seek 2175  
professional assistance as needed; 2176

(4) The grounds upon which the state relies for the 2177  
proposed commitment; 2178

(5) Any past history that is relevant to establish the 2179  
defendant's or person's degree of conformity to the laws, rules, 2180  
regulations, and values of society; 2181

(6) If there is evidence that the defendant's or person's 2182  
mental illness is in a state of remission, the medically 2183  
suggested cause and degree of the remission and the probability 2184  
that the defendant or person will continue treatment to maintain 2185  
the remissive state of the defendant's or person's illness 2186  
should the defendant's or person's commitment conditions be 2187  
altered. 2188

(F) At any hearing held pursuant to division (C) or (D) (1) 2189  
or (2) of this section, the defendant or the person shall have 2190  
all the rights of a defendant or person at a commitment hearing 2191  
as described in section 2945.40 of the Revised Code. 2192

(G) In a hearing held pursuant to division (C) or (D) (1) 2193  
of this section, the prosecutor has the burden of proof as 2194  
follows: 2195

(1) For a recommendation of termination of commitment, to 2196  
show by clear and convincing evidence that the defendant or 2197  
person remains a person with a mental illness subject to court 2198  
order or a person with an intellectual disability subject to 2199  
institutionalization by court order; 2200

(2) For a recommendation for a change in the conditions of 2201  
the commitment to a less restrictive status, to show by clear 2202  
and convincing evidence that the proposed change represents a 2203  
threat to public safety or a threat to the safety of any person. 2204

(H) In a hearing held pursuant to division (C) or (D) (1) 2205  
or (2) of this section, the prosecutor shall represent the state 2206  
or the public interest. 2207

(I) At the conclusion of a hearing conducted under 2208  
division (D) (1) of this section regarding a recommendation from 2209  
the designee of the department of ~~mental health and addiction~~ 2210  
~~services~~ behavioral health, managing officer of the institution, 2211  
or director of a facility or program, the trial court may 2212  
approve, disapprove, or modify the recommendation and shall 2213  
enter an order accordingly. 2214

(J) (1) A defendant or person who has been committed 2215  
pursuant to section 2945.39 or 2945.40 of the Revised Code 2216  
continues to be under the jurisdiction of the trial court until 2217

the final termination of the commitment. For purposes of 2218  
division (J) of this section, the final termination of a 2219  
commitment occurs upon the earlier of one of the following: 2220

(a) The defendant or person no longer is a person with a 2221  
mental illness subject to court order or a person with an 2222  
intellectual disability subject to institutionalization by court 2223  
order, as determined by the trial court; 2224

(b) The expiration of the maximum prison term or term of 2225  
imprisonment that the defendant or person could have received if 2226  
the defendant or person had been convicted of the most serious 2227  
offense with which the defendant or person is charged or in 2228  
relation to which the defendant or person was found not guilty 2229  
by reason of insanity; 2230

(c) The trial court enters an order terminating the 2231  
commitment under the circumstances described in division (J) (2) 2232  
(a) (ii) of this section. 2233

(2) (a) If a defendant is found incompetent to stand trial 2234  
and committed pursuant to section 2945.39 of the Revised Code, 2235  
if neither of the circumstances described in divisions (J) (1) (a) 2236  
and (b) of this section applies to that defendant, and if a 2237  
report filed with the trial court pursuant to division (C) of 2238  
this section indicates that the defendant presently is competent 2239  
to stand trial or if, at any other time during the period of the 2240  
defendant's commitment, the prosecutor, the counsel for the 2241  
defendant, or the designee of the department of ~~mental health~~ 2242  
~~and addiction services~~ behavioral health or the managing officer 2243  
of the institution or director of the facility or program to 2244  
which the defendant is committed files an application with the 2245  
trial court alleging that the defendant presently is competent 2246  
to stand trial and requesting a hearing on the competency issue 2247

or the trial court otherwise has reasonable cause to believe 2248  
that the defendant presently is competent to stand trial and 2249  
determines on its own motion to hold a hearing on the competency 2250  
issue, the trial court shall schedule a hearing on the 2251  
competency of the defendant to stand trial, shall give the 2252  
prosecutor, the counsel for the defendant, and the department's 2253  
designee or the managing officer of the institution or the 2254  
director of the facility to which the defendant is committed 2255  
notice of the date, time, and place of the hearing at least 2256  
fifteen days before the hearing, and shall conduct the hearing 2257  
within thirty days of the filing of the application or of its 2258  
own motion. If, at the conclusion of the hearing, the trial 2259  
court determines that the defendant presently is capable of 2260  
understanding the nature and objective of the proceedings 2261  
against the defendant and of assisting in the defendant's 2262  
defense, the trial court shall order that the defendant is 2263  
competent to stand trial and shall be proceeded against as 2264  
provided by law with respect to the applicable offenses 2265  
described in division (C)(1) of section 2945.38 of the Revised 2266  
Code and shall enter whichever of the following additional 2267  
orders is appropriate: 2268

(i) If the trial court determines that the defendant 2269  
remains a person with a mental illness subject to court order or 2270  
a person with an intellectual disability subject to 2271  
institutionalization by court order, the trial court shall order 2272  
that the defendant's commitment to the department of mental 2273  
health and addiction services or to an institution, facility, or 2274  
program for the treatment of intellectual disabilities be 2275  
continued during the pendency of the trial on the applicable 2276  
offenses described in division (C)(1) of section 2945.38 of the 2277  
Revised Code. 2278

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

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the department of ~~mental health and addiction services~~ behavioral health or to an institution, facility, or program for the treatment of intellectual disabilities shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of the Revised Code:

(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly

impairs judgment, behavior, capacity to recognize reality, or 2309  
ability to meet the ordinary demands of life. 2310

(B) "Person with a mental illness subject to court order" 2311  
means a person with a mental illness who, because of the 2312  
person's illness: 2313

(1) Represents a substantial risk of physical harm to self 2314  
as manifested by evidence of threats of, or attempts at, suicide 2315  
or serious self-inflicted bodily harm; 2316

(2) Represents a substantial risk of physical harm to 2317  
others as manifested by evidence of recent homicidal or other 2318  
violent behavior, evidence of recent threats that place another 2319  
in reasonable fear of violent behavior and serious physical 2320  
harm, or other evidence of present dangerousness; 2321

(3) Represents a substantial and immediate risk of serious 2322  
physical impairment or injury to self as manifested by evidence 2323  
that the person is unable to provide for and is not providing 2324  
for the person's basic physical needs because of the person's 2325  
mental illness and that appropriate provision for those needs 2326  
cannot be made immediately available in the community; 2327

(4) Would benefit from treatment for the person's mental 2328  
illness and is in need of such treatment as manifested by 2329  
evidence of behavior that creates a grave and imminent risk to 2330  
substantial rights of others or the person; 2331

(5) (a) Would benefit from treatment as manifested by 2332  
evidence of behavior that indicates all of the following: 2333

(i) The person is unlikely to survive safely in the 2334  
community without supervision, based on a clinical 2335  
determination. 2336

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

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

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

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

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

(b) An individual who meets only the criteria described in division (B) (5) (a) of this section is not subject to

hospitalization. 2366

(C) (1) "Patient" means, subject to division (C) (2) of this 2367  
section, a person who is admitted either voluntarily or 2368  
involuntarily to a hospital or other place under section 2369  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 2370  
subsequent to a finding of not guilty by reason of insanity or 2371  
incompetence to stand trial or under this chapter, who is under 2372  
observation or receiving treatment in such place. 2373

(2) "Patient" does not include a person admitted to a 2374  
hospital or other place under section 2945.39, 2945.40, 2375  
2945.401, or 2945.402 of the Revised Code to the extent that the 2376  
reference in this chapter to patient, or the context in which 2377  
the reference occurs, is in conflict with any provision of 2378  
sections 2945.37 to 2945.402 of the Revised Code. 2379

(D) "Licensed physician" means a person licensed under the 2380  
laws of this state to practice medicine or a medical officer of 2381  
the government of the United States while in this state in the 2382  
performance of the person's official duties. 2383

(E) "Psychiatrist" means a licensed physician who has 2384  
satisfactorily completed a residency training program in 2385  
psychiatry, as approved by the residency review committee of the 2386  
American medical association, the committee on post-graduate 2387  
education of the American osteopathic association, or the 2388  
American osteopathic board of neurology and psychiatry, or who 2389  
on July 1, 1989, has been recognized as a psychiatrist by the 2390  
Ohio state medical association or the Ohio osteopathic 2391  
association on the basis of formal training and five or more 2392  
years of medical practice limited to psychiatry. 2393

(F) "Hospital" means a hospital or inpatient unit licensed 2394

by the department of behavioral health under section 5119.33 of 2395  
the Revised Code, and any institution, hospital, or other place 2396  
established, controlled, or supervised by the department under 2397  
Chapter 5119. of the Revised Code. 2398

(G) "Public hospital" means a facility that is tax- 2399  
supported and under the jurisdiction of the department of 2400  
behavioral health. 2401

(H) "Community mental health services provider" means an 2402  
agency, association, corporation, individual, or program that 2403  
provides community mental health services that are certified by 2404  
the director of behavioral health under section 5119.36 of the 2405  
Revised Code. 2406

(I) "Licensed clinical psychologist" means a person who 2407  
holds a current, valid psychologist license issued under section 2408  
4732.12 of the Revised Code, and in addition, meets the 2409  
educational requirements set forth in division (B) of section 2410  
4732.10 of the Revised Code and has a minimum of two years' 2411  
full-time professional experience, or the equivalent as 2412  
determined by rule of the state board of psychology, at least 2413  
one year of which shall be a predoctoral internship, in clinical 2414  
psychological work in a public or private hospital or clinic or 2415  
in private practice, diagnosing and treating problems of mental 2416  
illness or intellectual disability under the supervision of a 2417  
psychologist who is licensed or who holds a diploma issued by 2418  
the American board of professional psychology, or whose 2419  
qualifications are substantially similar to those required for 2420  
licensure by the state board of psychology when the supervision 2421  
has occurred prior to enactment of laws governing the practice 2422  
of psychology. 2423

(J) "Health officer" means any public health physician; 2424

public health nurse; or other person authorized or designated by 2425  
a city or general health district or a board of alcohol, drug 2426  
addiction, and mental health services to perform the duties of a 2427  
health officer under this chapter. 2428

(K) "Chief clinical officer" means the medical director of 2429  
a hospital, community mental health services provider, or board 2430  
of alcohol, drug addiction, and mental health services, or, if 2431  
there is no medical director, the licensed physician responsible 2432  
for the treatment provided by a hospital or community mental 2433  
health services provider. The chief clinical officer may 2434  
delegate to the attending physician responsible for a patient's 2435  
care the duties imposed on the chief clinical officer by this 2436  
chapter. In the case of a community mental health services 2437  
provider, the chief clinical officer shall be designated by the 2438  
governing body of the services provider and shall be a licensed 2439  
physician or licensed clinical psychologist who supervises 2440  
diagnostic and treatment services. A licensed physician or 2441  
licensed clinical psychologist designated by the chief clinical 2442  
officer may perform the duties and accept the responsibilities 2443  
of the chief clinical officer in the chief clinical officer's 2444  
absence. 2445

(L) "Working day" or "court day" means Monday, Tuesday, 2446  
Wednesday, Thursday, and Friday, except when such day is a 2447  
holiday. 2448

(M) "Indigent" means unable without deprivation of 2449  
satisfaction of basic needs to provide for the payment of an 2450  
attorney and other necessary expenses of legal representation, 2451  
including expert testimony. 2452

(N) "Respondent" means the person whose detention, 2453  
commitment, hospitalization, continued hospitalization or 2454

commitment, or discharge is being sought in any proceeding under 2455  
this chapter. 2456

(O) "Ohio protection and advocacy system" has the same 2457  
meaning as in section 5123.60 of the Revised Code. 2458

(P) "Independent expert evaluation" means an evaluation 2459  
conducted by a licensed clinical psychologist, psychiatrist, or 2460  
licensed physician who has been selected by the respondent or 2461  
the respondent's counsel and who consents to conducting the 2462  
evaluation. 2463

(Q) ~~"Court"~~ "Probate court" means the probate division of 2464  
the court of common pleas. 2465

(R) "Expunge" means: 2466

(1) The removal and destruction of court files and 2467  
records, originals and copies, and the deletion of all index 2468  
references; 2469

(2) The reporting to the person of the nature and extent 2470  
of any information about the person transmitted to any other 2471  
person by the court; 2472

(3) Otherwise insuring that any examination of court files 2473  
and records in question shall show no record whatever with 2474  
respect to the person; 2475

(4) That all rights and privileges are restored, and that 2476  
the person, the court, and any other person may properly reply 2477  
that no such record exists, as to any matter expunged. 2478

(S) "Residence" means a person's physical presence in a 2479  
county with intent to remain there, except that: 2480

(1) If a person is receiving a mental health service at a 2481

facility that includes nighttime sleeping accommodations, 2482  
residence means that county in which the person maintained the 2483  
person's primary place of residence at the time the person 2484  
entered the facility; 2485

(2) If a person is committed pursuant to section 2945.38, 2486  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 2487  
residence means the county where the criminal charges were 2488  
filed. 2489

When the residence of a person is disputed, the matter of 2490  
residence shall be referred to the department of behavioral 2491  
health for investigation and determination. Residence shall not 2492  
be a basis for a board of alcohol, drug addiction, and mental 2493  
health services to deny services to any person present in the 2494  
board's service district, and the board shall provide services 2495  
for a person whose residence is in dispute while residence is 2496  
being determined and for a person in an emergency situation. 2497

(T) "Admission" to a hospital or other place means that a 2498  
patient is accepted for and stays at least one night at the 2499  
hospital or other place. 2500

(U) "Prosecutor" means the prosecuting attorney, village 2501  
solicitor, city director of law, or similar chief legal officer 2502  
who prosecuted a criminal case in which a person was found not 2503  
guilty by reason of insanity, who would have had the authority 2504  
to prosecute a criminal case against a person if the person had 2505  
not been found incompetent to stand trial, or who prosecuted a 2506  
case in which a person was found guilty. 2507

(V) (1) "Treatment plan" means a written statement of 2508  
reasonable objectives and goals for an individual established by 2509  
the treatment team, with specific criteria to evaluate progress 2510

towards achieving those objectives. 2511

(2) The active participation of the patient in 2512  
establishing the objectives and goals shall be documented. The 2513  
treatment plan shall be based on patient needs and include 2514  
services to be provided to the patient while the patient is 2515  
hospitalized, after the patient is discharged, or in an 2516  
outpatient setting. The treatment plan shall address services to 2517  
be provided. In the establishment of the treatment plan, 2518  
consideration should be given to the availability of services, 2519  
which may include but are not limited to all of the following: 2520

(a) Community psychiatric supportive treatment; 2521

(b) Assertive community treatment; 2522

(c) Medications; 2523

(d) Individual or group therapy; 2524

(e) Peer support services; 2525

(f) Financial services; 2526

(g) Housing or supervised living services; 2527

(h) Alcohol or substance abuse treatment; 2528

(i) Any other services prescribed to treat the patient's 2529  
mental illness and to either assist the patient in living and 2530  
functioning in the community or to help prevent a relapse or a 2531  
deterioration of the patient's current condition. 2532

(3) If the person subject to the treatment plan has 2533  
executed an advance directive for mental health treatment, the 2534  
treatment team shall consider any directions included in such 2535  
advance directive in developing the treatment plan. 2536

(W) "Community control sanction" has the same meaning as 2537

in section 2929.01 of the Revised Code. 2538

(X) "Post-release control sanction" has the same meaning 2539  
as in section 2967.01 of the Revised Code. 2540

(Y) "Local correctional facility" has the same meaning as 2541  
in section 2903.13 of the Revised Code. 2542

(Z) "Clinical nurse specialist" and "certified nurse 2543  
practitioner" have the same meanings as in section 4723.01 of 2544  
the Revised Code. 2545

(AA) "Criminal court" means a court of common pleas, 2546  
county court, or municipal court determining the issue of a 2547  
defendant's competence to stand trial under sections 2945.37, 2548  
2945.371, 2945.38, 2945.39, or 2945.401 of the Revised Code. 2549

**Sec. 5122.02.** (A) Except as provided in division (D) of 2550  
this section, any person who is eighteen years of age or older 2551  
and who is, appears to be, or believes self to be mentally ill 2552  
may make written application for voluntary admission to the 2553  
chief medical officer of a hospital. 2554

(B) Except as provided in division (D) of this section, 2555  
the application also may be made on behalf of a minor by a 2556  
parent, a guardian of the person, or the person with custody of 2557  
the minor, and on behalf of an adult incompetent person by the 2558  
guardian or the person with custody of the incompetent person. 2559

Any person whose admission is applied for under division 2560  
(A) or (B) of this section may be admitted for observation, 2561  
diagnosis, care, or treatment, in any hospital unless the chief 2562  
clinical officer finds that hospitalization is inappropriate, 2563  
and except that, in the case of a public hospital, no person 2564  
shall be admitted without the authorization of the board of the 2565  
person's county of residence. 2566

(C) If a minor or person adjudicated incompetent due to 2567  
mental illness whose voluntary admission is applied for under 2568  
division (B) of this section is admitted, the probate court 2569  
shall determine, upon petition by private or otherwise appointed 2570  
counsel, a relative, or one acting as next friend, whether the 2571  
admission or continued hospitalization is in the best interest 2572  
of the minor or incompetent. 2573

The chief clinical officer shall discharge any voluntary 2574  
patient who has recovered or whose hospitalization the officer 2575  
determines to be no longer advisable. In the case of a voluntary 2576  
patient who refuses to accept treatment consistent with the 2577  
written treatment plan required by section 5122.27 of the 2578  
Revised Code, the chief clinical officer may file an affidavit 2579  
under section 5122.11 of the Revised Code. If the chief clinical 2580  
officer decides not to file such an affidavit and to, instead, 2581  
discharge the patient, and a trial court or prosecutor had, 2582  
within the past twelve months, filed an affidavit in probate 2583  
court or criminal court pursuant to division (B)(1)(a)(v)(I) of 2584  
section 2945.38 of the Revised Code relating to the patient, the 2585  
chief clinical officer, to the extent that the chief clinical 2586  
officer has knowledge of the patient's prior status, shall 2587  
immediately notify such trial court or prosecutor of the intent 2588  
to discharge. Not later than three court days after being 2589  
notified of the intent to discharge, the trial court or 2590  
prosecutor may file or cause to be filed with the probate court 2591  
or criminal court of the county where the patient is 2592  
hospitalized, or the probate court or criminal court of the 2593  
county where the patient resides, an affidavit under section 2594  
5122.11 of the Revised Code. If such an affidavit is filed, the 2595  
patient's discharge must be postponed until a hearing under 2596  
section 5122.141 of the Revised Code is held. 2597

(D) A person who is found incompetent to stand trial or 2598  
not guilty by reason of insanity and who is committed pursuant 2599  
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 2600  
Revised Code shall not voluntarily admit the person or be 2601  
voluntarily admitted to a hospital pursuant to this section 2602  
until after the final termination of the commitment, as 2603  
described in division (J) of section 2945.401 of the Revised 2604  
Code. 2605

**Sec. 5122.03.** A patient admitted under section 5122.02 of 2606  
the Revised Code who requests release in writing, or whose 2607  
release is requested in writing by the patient's counsel, legal 2608  
guardian, parent, spouse, or adult next of kin shall be released 2609  
forthwith, except when any of the following is the case: 2610

(A) The patient was admitted on the patient's own 2611  
application and the request for release is made by a person 2612  
other than the patient, release may be conditional upon the 2613  
agreement of the patient. 2614

(B) The patient was, within the past twelve months, a 2615  
defendant described in division (B) (1) (a) (v) (I) of section 2616  
2945.38 of the Revised Code and the chief clinical officer of 2617  
the hospital decides not to file or cause to be filed an 2618  
affidavit under section 5122.11 of the Revised Code as described 2619  
in division (C) of this section. In that circumstance, the chief 2620  
clinical officer shall immediately notify the trial court or 2621  
prosecutor described in division (B) (1) (a) (v) (I) of section 2622  
2945.38 of the Revised Code of the chief clinical officer's 2623  
decision and intent to release the patient. Not later than three 2624  
court days after being notified of the intent to release, the 2625  
trial court or prosecutor may file or cause to be filed with the 2626  
probate court or criminal court of the county where the patient 2627

is hospitalized, or the probate court or criminal court of the 2628  
county where the patient resides, an affidavit under section 2629  
5122.11 of the Revised Code. If such an affidavit is filed, the 2630  
patient's release must be postponed until a hearing under 2631  
section 5122.141 of the Revised Code is held. 2632

(C) The chief clinical officer of the hospital, within 2633  
three court days from the receipt of the request for release, 2634  
files or causes to be filed with the probate court or criminal 2635  
court of the county where the patient is hospitalized or of the 2636  
county where the patient is a resident, an affidavit under 2637  
section 5122.11 of the Revised Code. Release may be postponed 2638  
until the hearing held under section 5122.141 of the Revised 2639  
Code. A telephone communication within three court days from the 2640  
receipt of the request for release from the chief clinical 2641  
officer to the court, indicating that the required affidavit has 2642  
been mailed, is sufficient compliance with the time limit for 2643  
filing such affidavit. 2644

Unless the patient is released within three days from the 2645  
receipt of the request by the chief clinical officer, the 2646  
request shall serve as a request for an initial hearing under 2647  
section 5122.141 of the Revised Code. If the probate court or 2648  
criminal court finds that the patient is a person with a mental 2649  
illness subject to court order, all provisions of this chapter 2650  
with respect to involuntary hospitalization apply to such 2651  
person. 2652

Judicial proceedings for hospitalization shall not be 2653  
commenced with respect to a voluntary patient except pursuant to 2654  
this section. 2655

Sections 5121.30 to 5121.56 of the Revised Code apply to 2656  
persons received in a hospital operated by the department of 2657

behavioral health on a voluntary application. 2658

The chief clinical officer of the hospital shall provide 2659  
reasonable means and arrangements for informing patients of 2660  
their rights to release as provided in this section and for 2661  
assisting them in making and presenting requests for release or 2662  
for a hearing under section 5122.141 of the Revised Code. 2663

Before a patient is released from a public hospital, the 2664  
chief clinical officer shall, when possible, provide notice of 2665  
the patient's pending release to the board of alcohol, drug 2666  
addiction, and mental health services serving the patient's 2667  
county of residence. Before the notice is given, the chief 2668  
clinical officer shall inform the patient that the board will be 2669  
so notified. 2670

**Sec. 5122.05.** (A) The Subject to section 5122.051 of the 2671  
Revised Code, the chief clinical officer of a hospital may, and 2672  
the chief clinical officer of a public hospital in all cases of 2673  
psychiatric medical emergencies, shall receive for observation, 2674  
diagnosis, care, and treatment any person whose admission is 2675  
applied for under any of the following procedures: 2676

(1) Emergency procedure, as provided in section 5122.10 of 2677  
the Revised Code; 2678

(2) Judicial procedure as provided in sections 2945.38, 2679  
2945.39, 2945.40, 2945.401, 2945.402, and 5122.11 to 5122.15 of 2680  
the Revised Code. 2681

Upon application for such admission, the chief clinical 2682  
officer of a hospital immediately shall notify the board of the 2683  
patient's county of residence. To assist the hospital in 2684  
determining whether the patient is subject to involuntary 2685  
hospitalization and whether alternative services are available, 2686

the board or an agency the board designates promptly shall 2687  
assess the patient unless the board or agency already has 2688  
performed such assessment, or unless the commitment is pursuant 2689  
to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of 2690  
the Revised Code. 2691

(B) No person who is being treated by spiritual means 2692  
through prayer alone, in accordance with a recognized religious 2693  
method of healing, may be involuntarily committed unless the 2694  
probate court or criminal court has determined that the person 2695  
represents a substantial risk of impairment or injury to self or 2696  
others; 2697

(C) Any person who is involuntarily detained in a hospital 2698  
or otherwise is in custody under this chapter, immediately upon 2699  
being taken into custody, shall be informed and provided with a 2700  
written statement that the person may do any of the following: 2701

(1) Immediately make a reasonable number of telephone 2702  
calls or use other reasonable means to contact an attorney, a 2703  
licensed physician, or a licensed clinical psychologist, to 2704  
contact any other person or persons to secure representation by 2705  
counsel, or to obtain medical or psychological assistance, and 2706  
be provided assistance in making calls if the assistance is 2707  
needed and requested; 2708

(2) Retain counsel and have independent expert evaluation 2709  
of the person's mental condition and, if the person is unable to 2710  
obtain an attorney or independent expert evaluation, be 2711  
represented by court-appointed counsel or have independent 2712  
expert evaluation of the person's mental condition, or both, at 2713  
public expense if the person is indigent; 2714

(3) Have a hearing to determine whether or not the person 2715

is a person with a mental illness subject to court order. 2716

Sec. 5122.051. The chief clinical officer of a hospital 2717  
that contains a mental health unit and participates in the 2718  
medicaid program shall accept any patient ordered to be 2719  
committed to the hospital as provided in sections 2945.38, 2720  
2945.39, 2945.40, 2945.401, 2945.402, and 5122.11 to 5122.15 of 2721  
the Revised Code. A hospital that refuses to accept a patient in 2722  
accordance with this section is ineligible to receive payment 2723  
under the medicaid program. 2724

**Sec. 5122.09.** If a person taken into custody under section 2725  
5122.10 or 5122.11 of the Revised Code is released from custody 2726  
before having an initial hearing, a probate court or criminal 2727  
court that has made a file or record relating to the person 2728  
during this period shall expunge it. 2729

**Sec. 5122.10.** (A) (1) Any of the following who has reason 2730  
to believe that a person is a person with a mental illness 2731  
subject to court order and represents a substantial risk of 2732  
physical harm to self or others if allowed to remain at liberty 2733  
pending examination may take the person into custody and may 2734  
immediately transport the person to a hospital or, 2735  
notwithstanding section 5119.33 of the Revised Code, to a 2736  
general hospital not licensed by the department of behavioral 2737  
health where the person may be held for the period prescribed in 2738  
this section: 2739

(a) A psychiatrist; 2740

(b) A licensed physician; 2741

(c) A licensed clinical psychologist; 2742

(d) A clinical nurse specialist who is certified as a 2743  
psychiatric-mental health CNS by the American nurses 2744

credentialing center; 2745

(e) A certified nurse practitioner who is certified as a 2746  
psychiatric-mental health NP by the American nurses 2747  
credentialing center; 2748

(f) A health officer; 2749

(g) A parole officer; 2750

(h) A police officer; 2751

(i) A sheriff. 2752

(2) If the chief of the adult parole authority or a parole 2753  
or probation officer with the approval of the chief of the 2754  
authority has reason to believe that a parolee, an offender 2755  
under a community control sanction or post-release control 2756  
sanction, or an offender under transitional control is a person 2757  
with a mental illness subject to court order and represents a 2758  
substantial risk of physical harm to self or others if allowed 2759  
to remain at liberty pending examination, the chief or officer 2760  
may take the parolee or offender into custody and may 2761  
immediately transport the parolee or offender to a hospital or, 2762  
notwithstanding section 5119.33 of the Revised Code, to a 2763  
general hospital not licensed by the department of behavioral 2764  
health where the parolee or offender may be held for the period 2765  
prescribed in this section. 2766

(B) A written statement shall be given to the hospital by 2767  
the individual authorized under division (A) (1) or (2) of this 2768  
section to transport the person. The statement shall specify the 2769  
circumstances under which such person was taken into custody and 2770  
the reasons for the belief that the person is a person with a 2771  
mental illness subject to court order and represents a 2772  
substantial risk of physical harm to self or others if allowed 2773

to remain at liberty pending examination. This statement shall 2774  
be made available to the respondent or the respondent's attorney 2775  
upon request of either. 2776

(C) Every reasonable and appropriate effort shall be made 2777  
to take persons into custody in the least conspicuous manner 2778  
possible. A person taking the respondent into custody pursuant 2779  
to this section shall explain to the respondent: the name and 2780  
professional designation and affiliation of the person taking 2781  
the respondent into custody; that the custody-taking is not a 2782  
criminal arrest; and that the person is being taken for 2783  
examination by mental health professionals at a specified mental 2784  
health facility identified by name. 2785

(D) If a person taken into custody under this section is 2786  
transported to a general hospital, the general hospital may 2787  
admit the person, or provide care and treatment for the person, 2788  
or both, notwithstanding section 5119.33 of the Revised Code, 2789  
but by the end of twenty-four hours after arrival at the general 2790  
hospital, the person shall be transferred to a hospital as 2791  
defined in section 5122.01 of the Revised Code. 2792

(E) A person transported or transferred to a hospital or 2793  
community mental health services provider under this section 2794  
shall be examined by the staff of the hospital or services 2795  
provider within twenty-four hours after arrival at the hospital 2796  
or services provider. If to conduct the examination requires 2797  
that the person remain overnight, the hospital or services 2798  
provider shall admit the person in an unclassified status until 2799  
making a disposition under this section. After the examination, 2800  
if the chief clinical officer of the hospital or services 2801  
provider believes that the person is not a person with a mental 2802  
illness subject to court order, the chief clinical officer shall 2803

release or discharge the person immediately unless a probate 2804  
court or criminal court has issued a temporary order of 2805  
detention applicable to the person under section 5122.11 of the 2806  
Revised Code. After the examination, if the chief clinical 2807  
officer believes that the person is a person with a mental 2808  
illness subject to court order, the chief clinical officer may 2809  
detain the person for not more than three court days following 2810  
the day of the examination and during such period admit the 2811  
person as a voluntary patient under section 5122.02 of the 2812  
Revised Code or file an affidavit under section 5122.11 of the 2813  
Revised Code. If neither action is taken and a probate court or 2814  
criminal court has not otherwise issued a temporary order of 2815  
detention applicable to the person under section 5122.11 of the 2816  
Revised Code, the chief clinical officer shall discharge the 2817  
person at the end of the three-day period unless the person has 2818  
been sentenced to the department of rehabilitation and 2819  
correction and has not been released from the person's sentence, 2820  
in which case the person shall be returned to that department. 2821

**Sec. 5122.11.** Proceedings for a person with a mental 2822  
illness subject to court order pursuant to sections 5122.11 to 2823  
5122.15 of the Revised Code shall be commenced by the filing of 2824  
an affidavit in the manner prescribed by the department of 2825  
~~mental-behavioral health and addiction services~~ and in a form 2826  
prescribed in section 5122.111 of the Revised Code, ~~by any~~. The 2827  
affidavit shall be filed in either of the following manners: 2828

In a probate court by a person or persons ~~with the probate~~ 2829  
~~court~~, either on reliable information or actual knowledge, 2830  
whichever is determined to be proper by the court. ~~This section~~ 2831  
~~does not apply to the hospitalization of a person pursuant to~~ 2832  
~~section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised~~ 2833  
~~Code.~~ 2834

In a criminal court by the trial court or prosecutor, 2835  
pursuant to division (B) (1) (a) (v) (I) of section 2945.38 of the 2836  
Revised Code. 2837

The affidavit shall contain an allegation setting forth 2838  
the specific category or categories under division (B) of 2839  
section 5122.01 of the Revised Code upon which the jurisdiction 2840  
of the probate court or criminal court is based and a statement 2841  
of alleged facts sufficient to indicate probable cause to 2842  
believe that the person is a person with a mental illness 2843  
subject to court order. The affidavit may be accompanied, or the 2844  
court may require that the affidavit be accompanied, by a 2845  
certificate of a psychiatrist, or a certificate signed by a 2846  
licensed clinical psychologist and a certificate signed by a 2847  
licensed physician stating that the person who issued the 2848  
certificate has examined the person and is of the opinion that 2849  
the person is a person with a mental illness subject to court 2850  
order, or shall be accompanied by a written statement by the 2851  
applicant, under oath, that the person has refused to submit to 2852  
an examination by a psychiatrist, or by a licensed clinical 2853  
psychologist and licensed physician. 2854

With regard to a defendant described in division (B) (1) (a) 2855  
(v) (I) of section 2945.38 of the Revised Code for whom criminal 2856  
charges were dismissed, the affidavit shall contain a space for 2857  
the trial court or prosecutor filing the affidavit to indicate 2858  
that the person named in the affidavit is such a defendant. 2859

Upon receipt of the affidavit, if a judge of the probate 2860  
court or criminal court or a referee who is an attorney at law 2861  
appointed by the court has probable cause to believe that the 2862  
person named in the affidavit is a person with a mental illness 2863  
subject to court order, the judge or referee may issue a 2864

temporary order of detention ordering any health or police 2865  
officer or sheriff to take into custody and transport the person 2866  
to a hospital or other place designated in section 5122.17 of 2867  
the Revised Code, or may set the matter for further hearing. If 2868  
a temporary order of detention is issued and the person is 2869  
transported to a hospital or other designated place, the court 2870  
that issued the order shall retain jurisdiction over the case as 2871  
it relates to the person's outpatient treatment, notwithstanding 2872  
that the hospital or other designated place to which the person 2873  
is transported is outside the territorial jurisdiction of the 2874  
court. 2875

The person may be observed and treated until the hearing 2876  
provided for in section 5122.141 of the Revised Code. If no such 2877  
hearing is held, the person may be observed and treated until 2878  
the hearing provided for in section 5122.15 of the Revised Code. 2879

**Sec. 5122.111.** To initiate proceedings for court-ordered 2880  
treatment of a person under section 5122.11 of the Revised Code, 2881  
a person or persons shall file an affidavit with the probate 2882  
court or a trial court or prosecutor shall file an affidavit 2883  
with the criminal court that is identical in form and content to 2884  
the following: 2885

AFFIDAVIT OF MENTAL ILLNESS 2886

The State of Ohio 2887

\_\_\_\_\_ County, ss. 2888

\_\_\_\_\_ Court 2889

\_\_\_\_\_ 2890

the undersigned, residing at 2891

\_\_\_\_\_ 2892

says, that he/she has information to believe or has actual	2893
knowledge that	2894
<hr/>	
(Please specify specific category(ies) below with an X.)	2895
[ ] Represents a substantial risk of physical harm to self as	2896
manifested by evidence of threats of, or attempts at, suicide or	2897
serious self-inflicted bodily harm;	2898
[ ] Represents a substantial risk of physical harm to others as	2899
manifested by evidence of recent homicidal or other violent	2900
behavior or evidence of recent threats that place another in	2901
reasonable fear of violent behavior and serious physical harm or	2902
other evidence of present dangerousness;	2903
[ ] Represents a substantial and immediate risk of serious	2904
physical impairment or injury to self as manifested by evidence	2905
of being unable to provide for and of not providing for basic	2906
physical needs because of mental illness and that appropriate	2907
provision for such needs cannot be made immediately available in	2908
the community;	2909
[ ] Would benefit from treatment for mental illness and is in	2910
need of such treatment as manifested by evidence of behavior	2911
that creates a grave and imminent risk to substantial rights of	2912
others or the person; or	2913
[ ] Would benefit from treatment as manifested by evidence of	2914
behavior that indicates all of the following:	2915
(a) The person is unlikely to survive safely in the community	2916
without supervision, based on a clinical determination.	2917
(b) The person has a history of lack of compliance with	2918
treatment for mental illness and one of the following applies:	2919
	2920

(i) At least twice within the thirty-six months prior to the 2921  
filing of an affidavit seeking court-ordered treatment of the 2922  
person under section 5122.111 of the Revised Code, the lack of 2923  
compliance has been a significant factor in necessitating 2924  
hospitalization in a hospital or receipt of services in a 2925  
forensic or other mental health unit of a correctional facility, 2926  
provided that the thirty-six-month period shall be extended by 2927  
the length of any hospitalization or incarceration of the person 2928  
that occurred within the thirty-six-month period. 2929

(ii) Within the forty-eight months prior to the filing of an 2930  
affidavit seeking court-ordered treatment of the person under 2931  
section 5122.111 of the Revised Code, the lack of compliance 2932  
resulted in one or more acts of serious violent behavior toward 2933  
self or others or threats of, or attempts at, serious physical 2934  
harm to self or others, provided that the forty-eight-month 2935  
period shall be extended by the length of any hospitalization or 2936  
incarceration of the person that occurred within the forty- 2937  
eight-month period. 2938

(c) The person, as a result of mental illness, is unlikely to 2939  
voluntarily participate in necessary treatment. 2940

(d) In view of the person's treatment history and current 2941  
behavior, the person is in need of treatment in order to prevent 2942  
a relapse or deterioration that would be likely to result in 2943  
substantial risk of serious harm to the person or others. 2944

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2945

(Name of the party filing the affidavit) further says that the 2946  
facts supporting this belief are as follows: 2947

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2948

---

2949

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

These facts being sufficient to indicate probable cause that the  
above said person is a person with a mental illness subject to  
court order.

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

\_\_\_\_\_  
\_\_\_\_\_

Name of Patient's Last Physician or Licensed Clinical  
Psychologist

\_\_\_\_\_

Address of Patient's Last Physician or Licensed Clinical  
Psychologist

\_\_\_\_\_

\_\_\_\_\_

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

Name	Kinship	Address
------	---------	---------

_____	Legal Guardian	_____
-------	----------------	-------

_____		_____
-------	--	-------

_____	Spouse	_____
-------	--------	-------

\_\_\_\_\_ 2978  
\_\_\_\_\_ Adult Next of Kin \_\_\_\_\_ 2979  
\_\_\_\_\_ 2980  
\_\_\_\_\_ Adult Next of Kin \_\_\_\_\_ 2981  
\_\_\_\_\_ 2982

The following constitutes additional information that may be 2983  
necessary for the purpose of determining residence: 2984

\_\_\_\_\_ 2985  
\_\_\_\_\_ 2986  
\_\_\_\_\_ 2987  
\_\_\_\_\_ 2988  
\_\_\_\_\_ 2989

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ 2990

\_\_\_\_\_ 2991

Signature of the party filing 2992  
the affidavit 2993

Sworn to before me and signed in my presence on the day and year 2994  
above dated. 2995

\_\_\_\_\_ 2996

Signature of ~~Probate~~ Judge, 2997  
Deputy Clerk, or Notary 2998  
Public 2999

WAIVER 3000

I, the undersigned party filing the affidavit hereby waive the 3001  
issuing and service of notice of the hearing on said affidavit, 3002  
and voluntarily enter my appearance herein. 3003

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ 3004

_____	3005
Signature of the party filing	3006
the affidavit	3007
<b>Sec. 5122.112.</b> A probate court <u>or criminal court</u> that	3008
terminates jurisdiction over a defendant described in division	3009
(B) (1) (a) (v) (I) of section 2945.38 of the Revised Code, for whom	3010
a trial court or prosecutor initiated proceedings alleging that	3011
the defendant is a mentally ill person subject to court order	3012
pursuant to sections 5122.11 to 5122.15 of the Revised Code,	3013
shall immediately do both of the following:	3014
(A) Notify the initiating court or prosecutor of the	3015
termination;	3016
(B) Transmit to the initiating court a copy of any records	3017
in its possession that pertain to the defendant's mental illness	3018
or treatment for mental illness.	3019
<b>Sec. 5122.12.</b> After receipt of the affidavit required by	3020
section 5122.11 of the Revised Code, the <u>probate court or</u>	3021
<u>criminal court</u> shall cause written notice by mail or otherwise	3022
of any hearing as the court directs to be given to the following	3023
persons:	3024
(A) The respondent;	3025
(B) The respondent's legal guardian, if any, the	3026
respondent's spouse, if any, and the respondent's parents, if	3027
the respondent is a minor, if these persons' addresses are known	3028
to the court or can be obtained through exercise of reasonable	3029
diligence;	3030
(C) The person who filed the affidavit;	3031

(D) Any one person designated by the respondent; but if 3032  
the respondent does not make a selection, the notice shall be 3033  
sent to the adult next of kin other than the person who filed 3034  
the affidavit if that person's address is known to the court or 3035  
can be obtained through exercise of reasonable diligence; 3036

(E) The respondent's counsel; 3037

(F) The director, chief clinical officer, or the 3038  
respective designee of the hospital, board, community mental 3039  
health services provider, or facility to which the person has 3040  
been committed; 3041

(G) The board of alcohol, drug addiction, and mental 3042  
health services serving the respondent's county of residence or 3043  
a services provider the board designates. 3044

Any person entitled to notice under this section, with the 3045  
exception of the respondent, may waive the notice. 3046

A copy of the affidavit and temporary order of detention 3047  
shall be served with the notice to the parties and to 3048  
respondent's counsel, if counsel has been appointed or retained. 3049

**Sec. 5122.13.** Within two business days after receipt of 3050  
the affidavit required by section 5122.11 of the Revised Code, 3051  
the probate court or criminal court shall refer the affidavit to 3052  
the board of alcohol, drug addiction, and mental health services 3053  
or community mental health services provider the board 3054  
designates to assist the court in determining whether the 3055  
respondent is subject to court-ordered treatment and whether 3056  
alternatives to hospitalization are available, unless the 3057  
services provider or board has already performed such screening. 3058  
The board or services provider shall review the allegations of 3059  
the affidavit and other information relating to whether or not 3060

the person named in the affidavit or statement is a person with 3061  
a mental illness subject to court order, and the availability of 3062  
appropriate treatment alternatives. 3063

The person who conducts the investigation shall promptly 3064  
make a report to the probate court or criminal court, in 3065  
writing, in open court or in chambers, as directed by the court 3066  
and a full record of the report shall be made by the court. The 3067  
report is not admissible as evidence for the purpose of 3068  
establishing whether or not the respondent is a person with a 3069  
mental illness subject to court order, but shall be considered 3070  
by the court in its determination of an appropriate placement 3071  
for any person after that person is found to be a person with a 3072  
mental illness subject to court order. 3073

The probate court or criminal court, prior to the hearing 3074  
under section 5122.141 of the Revised Code, shall release a copy 3075  
of the investigative report to the respondent's counsel. 3076

Nothing in this section precludes a judge or referee from 3077  
issuing a temporary order of detention pursuant to section 3078  
5122.11 of the Revised Code. 3079

**Sec. 5122.14.** Immediately after acceptance of an affidavit 3080  
required under section 5122.11 of the Revised Code, the probate 3081  
court or criminal court may appoint a psychiatrist, or a 3082  
licensed clinical psychologist and a licensed physician to 3083  
examine the respondent, and at the first hearing held pursuant 3084  
to section 5122.141 of the Revised Code, such psychiatrist, or 3085  
licensed clinical psychologist and licensed physician, shall 3086  
report to the court ~~his~~ the findings of the examination as to the 3087  
mental condition of the respondent, and ~~his~~ the respondent's need 3088  
for custody, care, or treatment in a mental hospital. The court 3089  
may accept as evidence the written report of a psychiatrist, or 3090

the written report of a licensed clinical psychologist and a 3091  
licensed physician, designated by the board of alcohol, drug 3092  
addiction, and mental health services as the report and findings 3093  
referred to in this section. 3094

The examination, if possible, shall be held at a hospital 3095  
or other medical facility, at the home of the respondent, or at 3096  
any other suitable place least likely to have a harmful effect 3097  
on the respondent's health. 3098

The probate court or criminal court shall prior to a 3099  
hearing under section 5122.141 or 5122.15 of the Revised Code 3100  
release a copy of the report to the respondent's counsel. 3101

**Sec. 5122.141.** (A) A respondent who is involuntarily 3102  
placed in a hospital or other place as designated in section 3103  
5122.10 or 5122.17 of the Revised Code, or with respect to whom 3104  
proceedings have been instituted under section 5122.11 of the 3105  
Revised Code, shall be afforded a hearing to determine whether 3106  
or not the respondent is a person with a mental illness subject 3107  
to court order. The hearing shall be conducted pursuant to 3108  
section 5122.15 of the Revised Code, and the respondent shall 3109  
have the right to counsel as provided in that section. 3110

(B) The hearing shall be conducted within five court days 3111  
from the day on which the respondent is detained or an affidavit 3112  
is filed, whichever occurs first, in a physical setting not 3113  
likely to have a harmful effect on the respondent, and may be 3114  
conducted in a hospital in or out of the county. On the motion 3115  
of the respondent, the respondent's counsel, the chief clinical 3116  
officer, or on its own motion, and for good cause shown, the 3117  
probate court or criminal court may order a continuance of the 3118  
hearing. The continuance may be for no more than ten days from 3119  
the day on which the respondent is detained or on which an 3120

affidavit is filed, whichever occurs first. Failure to conduct 3121  
the hearing within this time shall effect an immediate discharge 3122  
of the respondent. If the proceedings are not reinstated 3123  
within thirty days, all records of the proceedings shall be 3124  
expunged. 3125

(C) If the probate court or criminal court does not find 3126  
that the respondent is a person with a mental illness subject to 3127  
court order, it shall order the respondent's immediate 3128  
discharge, and shall expunge all record of the proceedings 3129  
during this period. 3130

(D) If the probate court or criminal court finds that the 3131  
respondent is a person with a mental illness subject to court 3132  
order, the court may issue an interim order of detention 3133  
ordering any health or police officer or sheriff to take into 3134  
custody and transport such person to a hospital or other place 3135  
designated in section 5122.17 of the Revised Code, where the 3136  
respondent may be observed and treated. 3137

(E) A respondent or a respondent's counsel, after 3138  
obtaining the consent of the respondent, may waive the hearing 3139  
provided for in this section. In such case, unless the person 3140  
has been discharged, a mandatory full hearing shall be held by 3141  
the thirtieth day after the original involuntary detention of 3142  
the respondent. Failure to conduct the mandatory full hearing 3143  
within this time limit shall result in the immediate discharge 3144  
of the respondent. 3145

(F) Where possible, the initial hearing shall be held 3146  
before the respondent is taken into custody. 3147

**Sec. 5122.15.** (A) Full hearings shall be conducted in a 3148  
manner consistent with this chapter and with due process of law. 3149

The hearings shall be conducted by a judge of the probate court 3150  
or criminal court or a referee designated by a judge of the 3151  
probate court or criminal court and may be conducted in or out 3152  
of the county in which the respondent is held. Any referee 3153  
designated under this division shall be an attorney. 3154

(1) With the consent of the respondent, the following 3155  
shall be made available to counsel for the respondent: 3156

(a) All relevant documents, information, and evidence in 3157  
the custody or control of the state or prosecutor; 3158

(b) All relevant documents, information, and evidence in 3159  
the custody or control of the hospital in which the respondent 3160  
currently is held, or in which the respondent has been held 3161  
pursuant to this chapter; 3162

(c) All relevant documents, information, and evidence in 3163  
the custody or control of any hospital, facility, or person not 3164  
included in division (A) (1) (a) or (b) of this section. 3165

(2) The respondent has the right to attend the hearing and 3166  
to be represented by counsel of the respondent's choice. The 3167  
right to attend the hearing may be waived only by the respondent 3168  
or counsel for the respondent after consultation with the 3169  
respondent. 3170

(3) If the respondent is not represented by counsel, is 3171  
absent from the hearing, and has not validly waived the right to 3172  
counsel, the probate court or criminal court shall appoint 3173  
counsel immediately to represent the respondent at the hearing, 3174  
reserving the right to tax costs of appointed counsel to the 3175  
respondent, unless it is shown that the respondent is indigent. 3176  
If the court appoints counsel, or if the court determines that 3177  
the evidence relevant to the respondent's absence does not 3178

justify the absence, the court shall continue the case. 3179

(4) The respondent shall be informed that the respondent 3180  
may retain counsel and have independent expert evaluation. If 3181  
the respondent is unable to obtain an attorney, the respondent 3182  
shall be represented by court-appointed counsel. If the 3183  
respondent is indigent, court-appointed counsel and independent 3184  
expert evaluation shall be provided as an expense under section 3185  
5122.43 of the Revised Code. 3186

(5) The hearing shall be closed to the public, unless 3187  
counsel for the respondent, with the permission of the 3188  
respondent, requests that the hearing be open to the public. 3189

(6) If the hearing is closed to the public, the probate 3190  
court or criminal court, for good cause shown, may admit persons 3191  
who have a legitimate interest in the proceedings. If the 3192  
respondent, the respondent's counsel, or the designee of the 3193  
director or of the chief clinical officer objects to the 3194  
admission of any person, the court shall hear the objection and 3195  
any opposing argument and shall rule upon the admission of the 3196  
person to the hearing. 3197

(7) The affiant under section 5122.11 of the Revised Code 3198  
shall be subject to subpoena by either party. 3199

(8) The probate court or criminal court shall examine the 3200  
sufficiency of all documents filed and shall inform the 3201  
respondent, if present, and the respondent's counsel of the 3202  
nature and content of the documents and the reason for which the 3203  
respondent is being detained, or for which the respondent's 3204  
placement is being sought. 3205

(9) The probate court or criminal court shall receive only 3206  
reliable, competent, and material evidence. 3207

(10) Unless proceedings are initiated pursuant to section 3208  
5120.17 or 5139.08 of the Revised Code, an attorney that the 3209  
board designates shall present the case demonstrating that the 3210  
respondent is a person with a mental illness subject to court 3211  
order. The attorney shall offer evidence of the diagnosis, 3212  
prognosis, record of treatment, if any, and less restrictive 3213  
treatment plans, if any. In proceedings pursuant to section 3214  
5120.17 or 5139.08 of the Revised Code, the attorney general 3215  
shall designate an attorney who shall present the case 3216  
demonstrating that the respondent is a person with a mental 3217  
illness subject to court order. The attorney shall offer 3218  
evidence of the diagnosis, prognosis, record of treatment, if 3219  
any, and less restrictive treatment plans, if any. 3220

(11) The respondent or the respondent's counsel has the 3221  
right to subpoena witnesses and documents and to examine and 3222  
cross-examine witnesses. 3223

(12) The respondent has the right, but shall not be 3224  
compelled, to testify, and shall be so advised by the probate 3225  
court or criminal court. 3226

(13) On motion of the respondent or the respondent's 3227  
counsel for good cause shown, or on the probate court's or 3228  
criminal court's own motion, the court may order a continuance 3229  
of the hearing. 3230

(14) If the respondent is represented by counsel and the 3231  
respondent's counsel requests a transcript and record, or if the 3232  
respondent is not represented by counsel, the probate court or 3233  
criminal court shall make and maintain a full transcript and 3234  
record of the proceeding. If the respondent is indigent and the 3235  
transcript and record is made, a copy shall be provided to the 3236  
respondent upon request and be treated as an expense under 3237

section 5122.43 of the Revised Code. 3238

(15) To the extent not inconsistent with this chapter, the 3239  
Rules of Civil Procedure are applicable. 3240

(B) Unless, upon completion of the hearing the probate 3241  
court or criminal court finds by clear and convincing evidence 3242  
that the respondent is a person with a mental illness subject to 3243  
court order, it shall order the respondent's discharge 3244  
immediately. 3245

(C) If, upon completion of the hearing, the probate court 3246  
or criminal court finds by clear and convincing evidence that 3247  
the respondent is a person with a mental illness subject to 3248  
court order, the court shall order the respondent for a period 3249  
not to exceed ninety days to any of the following: 3250

(1) A hospital operated by the department of behavioral 3251  
health if the respondent is committed pursuant to section 3252  
5139.08 of the Revised Code; 3253

(2) A nonpublic hospital; 3254

(3) The veterans' administration or other agency of the 3255  
United States government; 3256

(4) A board of alcohol, drug addiction, and mental health 3257  
services or services provider the board designates; 3258

(5) Receive private psychiatric or psychological care and 3259  
treatment; 3260

(6) Any other suitable facility or person consistent with 3261  
the diagnosis, prognosis, and treatment needs of the respondent. 3262  
A jail or other local correctional facility is not a suitable 3263  
facility. 3264

(D) Any order made pursuant to division (C) (2), (3), (5), 3265  
or (6) of this section shall be conditioned upon the receipt by 3266  
the probate court or criminal court of consent by the hospital, 3267  
facility, agency, or person to accept the respondent and may 3268  
include a requirement that a person or entity described in 3269  
division (C) (2), (3), (5), or (6) of this section inform the 3270  
board of alcohol, drug addiction, and mental health services or 3271  
community mental health services provider the board designates 3272  
about the progress of the respondent with the treatment plan. 3273

(E) In determining the entity or person to which the 3274  
respondent is to be committed under division (C) of this 3275  
section, the probate court or criminal court shall consider all 3276  
of the following: 3277

(1) The respondent's diagnosis and prognosis made by a 3278  
psychiatrist, licensed clinical psychologist, clinical nurse 3279  
specialist who is certified as a psychiatric-mental health 3280  
clinical nurse specialist by the American nurses credentialing 3281  
center, or certified nurse practitioner who is certified as a 3282  
psychiatric-mental health nurse practitioner by the American 3283  
nurses credentialing center; 3284

(2) The respondent's preferences; 3285

(3) The respondent's projected treatment plan. 3286

The probate court or criminal court shall order the 3287  
implementation of the least restrictive alternative available 3288  
and consistent with treatment goals. If the court determines 3289  
that the least restrictive alternative available that is 3290  
consistent with treatment goals is inpatient hospitalization, 3291  
the court's order shall so state. 3292

(F) During the ninety-day period the entity or person 3293

shall examine and treat the respondent. If the respondent is receiving treatment in an outpatient setting, or receives treatment in an outpatient setting during a subsequent period of continued commitment under division (H) of this section, the entity or person to whom the respondent is committed shall determine the appropriate outpatient treatment for the respondent. If, at any time prior to the expiration of the ninety-day period, it is determined by the entity or person that the respondent's treatment needs could be equally well met in an available and appropriate less restrictive setting, both of the following apply:

(1) The respondent shall be released from the care of the entity or person immediately and shall be referred to the probate court or criminal court together with a report of the findings and recommendations of the entity or person;

(2) The entity or person shall notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or a services provider designated by the board, it shall place the respondent in the least restrictive setting available consistent with treatment goals and notify the probate court or criminal court and the respondent's counsel of the placement.

The probate court or criminal court shall dismiss the case or order placement in the least restrictive setting.

(G) (1) Except as provided in division (G) (2) of this section, any person for whom proceedings for treatment have been commenced pursuant to section 5122.11 of the Revised Code, may apply at any time for voluntary admission or treatment to the entity or person to which the person was committed. Upon

admission as a voluntary patient the chief clinical officer of 3324  
the entity or the person immediately shall notify the probate 3325  
court or criminal court, the patient's counsel, and the attorney 3326  
designated by the board, if the attorney has entered the 3327  
proceedings, in writing of that fact, and, upon receipt of the 3328  
notice, the court shall dismiss the case. 3329

(2) A person who is found incompetent to stand trial or 3330  
not guilty by reason of insanity and who is committed pursuant 3331  
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 3332  
Revised Code shall not voluntarily commit the person pursuant to 3333  
this section until after the final termination of the 3334  
commitment, as described in division (J) of section 2945.401 of 3335  
the Revised Code. 3336

(H) If, at the end of the first ninety-day period or any 3337  
subsequent period of continued commitment, there has been no 3338  
disposition of the case, either by discharge or voluntary 3339  
admission or treatment, the entity or person shall discharge the 3340  
patient immediately, unless at least ten days before the 3341  
expiration of the period the attorney the board designates or 3342  
the prosecutor files with the probate court or criminal court an 3343  
application for continued commitment. The application of the 3344  
attorney or the prosecutor shall include a written report 3345  
containing the diagnosis, prognosis, past treatment, a list of 3346  
alternative treatment settings and plans, and identification of 3347  
the treatment setting that is the least restrictive consistent 3348  
with treatment needs. The attorney the board designates or the 3349  
prosecutor shall file the written report at least three days 3350  
prior to the full hearing. A copy of the application and written 3351  
report shall be provided to the respondent's counsel 3352  
immediately. 3353

The probate court or criminal court shall hold a full 3354  
hearing on applications for continued commitment at the 3355  
expiration of the first ninety-day period and at least every two 3356  
years after the expiration of the first ninety-day period. 3357

Hearings following any application for continued 3358  
commitment are mandatory and may not be waived. 3359

For a respondent who is ordered to receive treatment in an 3360  
outpatient setting, if at any time after the first ninety-day 3361  
period the entity or person to whom the respondent was ordered 3362  
determines that the respondent has demonstrated voluntary 3363  
consent for treatment, that entity or person shall immediately 3364  
notify the respondent, the respondent's counsel, the attorney 3365  
designated by the board, and the probate court or criminal 3366  
court. The entity or person shall submit to the court a report 3367  
of the findings and recommendations. The court may dismiss the 3368  
case upon review of the facts. 3369

Upon request of a person who is involuntarily committed 3370  
under this section, or the person's counsel, that is made more 3371  
than one hundred eighty days after the person's last full 3372  
hearing, mandatory or requested, the probate court or criminal 3373  
court shall hold a full hearing on the person's continued 3374  
commitment. Upon the application of a person involuntarily 3375  
committed under this section, supported by an affidavit of a 3376  
psychiatrist or licensed clinical psychologist, alleging that 3377  
the person no longer is a person with a mental illness subject 3378  
to court order, the court for good cause shown may hold a full 3379  
hearing on the person's continued commitment prior to the 3380  
expiration of one hundred eighty days after the person's last 3381  
full hearing. Section 5122.12 of the Revised Code applies to all 3382  
hearings on continued commitment. 3383

If the probate court or criminal court, after a hearing 3384  
for continued commitment finds by clear and convincing evidence 3385  
that the respondent is a person with a mental illness subject to 3386  
court order, the court may order continued commitment at places 3387  
or to persons specified in division (C) of this section. 3388

(I) Unless the admission is pursuant to section 5120.17 or 3389  
5139.08 of the Revised Code, the chief clinical officer of the 3390  
entity admitting a respondent pursuant to a judicial proceeding, 3391  
within ten working days of the admission, shall make a report of 3392  
the admission to the board of alcohol, drug addiction, and 3393  
mental health services serving the respondent's county of 3394  
residence. 3395

(J) A referee appointed by the probate court or criminal 3396  
court may make all orders that a judge may make under this 3397  
section and sections 5122.11 and 5122.141 of the Revised Code, 3398  
except an order of contempt of court. The orders of a referee 3399  
take effect immediately. Within fourteen days of the making of 3400  
an order by a referee, a party may file written objections to 3401  
the order with the court. The filed objections shall be 3402  
considered a motion, shall be specific, and shall state their 3403  
grounds with particularity. Within ten days of the filing of the 3404  
objections, a judge of the court shall hold a hearing on the 3405  
objections and may hear and consider any testimony or other 3406  
evidence relating to the respondent's mental condition. At the 3407  
conclusion of the hearing, the judge may ratify, rescind, or 3408  
modify the referee's order. 3409

(K) An order of the probate court or criminal court under 3410  
division (C), (H), or (J) of this section is a final order. 3411

(L) Before a board, or a services provider the board 3412  
designates, may place an unconsenting respondent in an inpatient 3413

setting from a less restrictive placement, the board or services provider shall do all of the following:

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting;

(2) On the day of placement in the inpatient setting or on the next court day, file with the probate court or criminal court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed;

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible;

(4) Immediately notify the board's designated attorney and the respondent's attorney.

At the respondent's request, the probate court or criminal court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five days of the placement.

(M) Before a board, or a services provider the board designates, may move a respondent from one residential placement to another, the board or services provider shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent.

(N) The entity or person to whom the respondent was ordered for treatment in an outpatient setting may submit a

report to the probate court or criminal court indicating that 3443  
the respondent has either failed to comply with the treatment 3444  
plan or begun to demonstrate signs of decompensation that may be 3445  
grounds for hospitalization. On receipt of the report, the court 3446  
shall promptly schedule a hearing to review the case. The court 3447  
shall conduct the hearing in a manner consistent with this 3448  
chapter and due process of law. The board shall receive notice 3449  
of the hearing and the board and entity or person treating the 3450  
respondent shall submit a report to the court with a plan for 3451  
appropriate alternative treatment, if any, or recommend that the 3452  
court discontinue the court-ordered treatment. The court shall 3453  
consider available and appropriate alternative placements but 3454  
shall not impose criminal sanctions that result in confinement 3455  
in a jail or other local correctional facility based on the 3456  
respondent's failure to comply with the treatment plan. The 3457  
court may not order the respondent to a more restrictive 3458  
placement unless the criteria specified in division (L) of this 3459  
section are met and may not order the respondent to an inpatient 3460  
setting unless the court determines by clear and convincing 3461  
evidence presented by the board that the respondent meets the 3462  
criteria specified in divisions (A) and (B) (1), (2), (3), or (4) 3463  
of section 5122.01 of the Revised Code. 3464

**Sec. 5122.20.** The director of behavioral health or the 3465  
director's designee may transfer, or authorize the transfer of, 3466  
an involuntary patient, or a consenting voluntary patient 3467  
hospitalized pursuant to section 5122.02 or sections 5122.11 to 3468  
5122.15 of the Revised Code, from one public hospital to 3469  
another, or to a hospital, community mental health services 3470  
provider, or other facility offering treatment or other services 3471  
for mental illness, if the medical director of the department of 3472  
behavioral health determines that it would be consistent with 3473

the medical needs of the patient to do so. If such a transfer is 3474  
made to a private facility, the transfer shall be conditioned 3475  
upon the consent of the facility. 3476

Before an involuntary patient may be transferred to a more 3477  
restrictive setting, the chief clinical officer shall file a 3478  
motion with the probate court or criminal court requesting the 3479  
court to amend its order of placement issued under section 3480  
5122.15 of the Revised Code. At the patient's request, the court 3481  
shall hold a hearing on the motion at which the patient has the 3482  
same rights as at a full hearing under section 5122.15 of the 3483  
Revised Code. The hearing shall be held within ten days after 3484  
the date on which the respondent was transferred to the more 3485  
restrictive setting or on which the motion was filed, whichever 3486  
is earlier. On the motion of the respondent, the respondent's 3487  
counsel, or the chief clinical officer, or on its own motion, 3488  
and for good cause shown, the court may order a continuance of 3489  
the hearing for up to ten days. 3490

Whenever an involuntary patient is transferred, written 3491  
notice of the transfer shall be given to the patient's legal 3492  
guardian, parents, spouse, and counsel, or, if none is known, to 3493  
the patient's nearest known relative or friend. If the patient 3494  
is a minor, the department, before making such a transfer, shall 3495  
make a minute of the order for the transfer and the reason for 3496  
it upon its record and shall send a certified copy at least 3497  
seven days prior to the transfer to the person shown by its 3498  
record to have had the care or custody of the minor immediately 3499  
prior to the minor's commitment. Whenever a consenting voluntary 3500  
patient is transferred, the notification shall be given only at 3501  
the patient's request. The chief clinical officer shall advise a 3502  
voluntary patient who is being transferred that the patient may 3503  
decide if the notification shall be given. In all such 3504

transfers, due consideration shall be given to the wishes of the 3505  
patient, and the relationship of the patient to the patient's 3506  
family, legal guardian, or friends, so as to maintain the 3507  
relationship and encourage visits beneficial to the patient. 3508

When a voluntary patient whose medical or psychological 3509  
needs are found by the chief clinical officer to warrant a 3510  
transfer refuses to be transferred to an alternate facility, the 3511  
chief clinical officer may file an affidavit for a hearing under 3512  
section 5122.11 of the Revised Code. 3513

**Sec. 5122.23.** The chief clinical officer of a public 3514  
hospital shall immediately report to the department of 3515  
behavioral health and the board of alcohol, drug addiction, and 3516  
mental health services serving the patient's county of residence 3517  
the removal, death, escape, discharge, or trial visit of any 3518  
patient hospitalized under section 5122.15 of the Revised Code, 3519  
or the return of such an escaped or visiting patient to the 3520  
department, the ~~probate~~-judge of the probate court or the 3521  
criminal court of the county from which such patient was 3522  
hospitalized, and the ~~probate~~-judge of the probate court or the 3523  
criminal court of the county of residence of such patient. In 3524  
case of death, the chief clinical officer also shall notify one 3525  
or more of the nearest relatives of the deceased patient, if 3526  
known to the chief clinical officer, by letter, telegram, or 3527  
telephone. If the place of residence of such relative is unknown 3528  
to the chief clinical officer, immediately upon receiving 3529  
notification the ~~probate~~-judge of the probate court or the 3530  
criminal court shall in the speediest manner possible notify 3531  
such relatives, if known to the ~~probate~~-judge. 3532

The chief clinical officer of a public hospital, upon the 3533  
request of the ~~probate~~-judge of the probate court or the 3534

criminal court of the county from which a patient was 3535  
hospitalized or the ~~probate~~ judge of the probate court or the 3536  
criminal court of the county of residence of such a patient, 3537  
shall make a report to the judge of the condition of any patient 3538  
under the care, treatment, custody, or control of the chief 3539  
clinical officer. 3540

**Sec. 5122.25.** Upon the request of a hospital, person, 3541  
board, community mental health services provider, or facility 3542  
who has custody of a patient hospitalized pursuant to section 3543  
5122.15 of the Revised Code, or on the order of the probate 3544  
court or criminal court, such patient may be called for a 3545  
rehearing at such place within the county of the patient's 3546  
residence or the county where such patient is hospitalized as 3547  
the court designates. The hearing shall be conducted pursuant to 3548  
section 5122.15 of the Revised Code. 3549

**Sec. 5122.26.** (A) If a patient is absent without leave, on 3550  
a verbal or written order issued within five days of the time of 3551  
the unauthorized absence by the department of behavioral health, 3552  
the chief clinical officer of the hospital from which the 3553  
patient is absent without leave, or the probate court or 3554  
criminal court of either the county from which the patient was 3555  
committed or in which the patient is found, any health or police 3556  
officer or sheriff may take the patient into custody and 3557  
transport the patient to the hospital in which the patient was 3558  
hospitalized or to a place that is designated in the order. The 3559  
officer immediately shall report such fact to the entity that 3560  
issued the order. 3561

The chief clinical officer of a hospital may discharge a 3562  
patient who is under an indictment, a sentence of imprisonment, 3563  
a community control sanction, or a post-release control sanction 3564

or on parole and who has been absent without leave for more than 3565  
thirty days but shall give written notice of the discharge to 3566  
the court with criminal jurisdiction over the patient. The chief 3567  
clinical officer of a hospital may discharge any other patient 3568  
who has been absent without leave for more than fourteen days. 3569

The chief clinical officer shall take all proper measures 3570  
for the apprehension of an escaped patient. The expense of the 3571  
return of an escaped patient shall be borne by the hospital 3572  
where the patient is hospitalized. 3573

(B) (1) Subject to division (B) (2) of this section, no 3574  
patient hospitalized under Chapter 5122. of the Revised Code 3575  
whose absence without leave was caused or contributed to by the 3576  
patient's mental illness shall be subject to a charge of escape. 3577

(2) Division (B) (1) of this section does not apply to any 3578  
person who was hospitalized, institutionalized, or confined in a 3579  
facility under an order made pursuant to or under authority of 3580  
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 3581  
or 2945.402 of the Revised Code and who escapes from the 3582  
facility, from confinement in a vehicle for transportation to or 3583  
from the facility, or from supervision by an employee of the 3584  
facility that is incidental to hospitalization, 3585  
institutionalization, or confinement in the facility and that 3586  
occurs outside the facility, in violation of section 2921.34 of 3587  
the Revised Code. 3588

**Sec. 5122.27.** The chief clinical officer of the hospital 3589  
or the chief clinical officer's designee shall assure that all 3590  
patients hospitalized or committed pursuant to this chapter 3591  
shall: 3592

(A) Receive, within twenty days of their admission 3593

sufficient professional care to assure that an evaluation of 3594  
current status, differential diagnosis, probable prognosis, and 3595  
description of the current treatment plan is stated on the 3596  
official chart; 3597

(B) Have a written treatment plan consistent with the 3598  
evaluation, diagnosis, prognosis, and goals which shall be 3599  
provided, upon request of the patient or patient's counsel, to 3600  
the patient's counsel and to any private physician or licensed 3601  
clinical psychologist designated by the patient or the patient's 3602  
counsel or to the Ohio protection and advocacy system; 3603

(C) Receive treatment consistent with the treatment plan. 3604  
The department of behavioral health shall set standards for 3605  
treatment provided to such patients, consistent wherever 3606  
possible with standards set by the joint commission. 3607

(D) Receive periodic reevaluations of the treatment plan 3608  
by the professional staff at intervals not to exceed ninety 3609  
days; 3610

(E) Be provided with adequate medical treatment for 3611  
physical disease or injury; 3612

(F) Receive humane care and treatment, including without 3613  
limitation, the following: 3614

(1) The least restrictive environment consistent with the 3615  
treatment plan; 3616

(2) The necessary facilities and personnel required by the 3617  
treatment plan; 3618

(3) A humane psychological and physical environment; 3619

(4) The right to obtain current information concerning the 3620  
patient's treatment program and expectations in terms that the 3621

patient can reasonably understand; 3622

(5) Participation in programs designed to afford the 3623  
patient substantial opportunity to acquire skills to facilitate 3624  
return to the community or to terminate an involuntary 3625  
commitment; 3626

(6) The right to be free from unnecessary or excessive 3627  
medication; 3628

(7) Freedom from restraints or isolation unless it is 3629  
stated in a written order by the chief clinical officer or the 3630  
chief clinical officer's designee, or the patient's individual 3631  
physician or psychologist in a private or general hospital. 3632

If the chief clinical officer of the hospital is unable to 3633  
provide the treatment required by divisions (C), (E), and (F) of 3634  
this section for any patient hospitalized pursuant to Chapter 3635  
5122. of the Revised Code, the chief clinical officer shall 3636  
immediately notify the patient, the probate court or criminal 3637  
court, the Ohio protection and advocacy system, the director of 3638  
behavioral health, and the patient's counsel and legal guardian, 3639  
if known. If within ten days after receipt of such notification 3640  
by the director, the director is unable to effect a transfer of 3641  
the patient, pursuant to section 5122.20 of the Revised Code, to 3642  
a hospital, community mental health services provider, or other 3643  
medical facility where treatment is available, or has not 3644  
received an order of the court to the contrary, the involuntary 3645  
commitment of any patient hospitalized pursuant to Chapter 5122. 3646  
of the Revised Code and defined as a person with a mental 3647  
illness subject to court order under division (B)(4) of section 3648  
5122.01 of the Revised Code shall automatically be terminated. 3649

**Sec. 5122.271.** (A) Except as provided in divisions (C), 3650

(D), and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for persons with mental illnesses to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilizations;
- (5) Any unusually hazardous treatment procedures;
- (6) Psycho-surgery.

(B) No patient shall be subjected to any of the procedures listed in divisions (A) (4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the probate court or criminal court have been obtained, except that court approval is not required for a legally competent and voluntary patient in a nonpublic hospital.

(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A) (1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed guardian, who may give an informed, intelligent, and knowing written

consent. 3679

If a patient is physically or mentally unable to receive 3680  
the information required for surgery under division (A) (1) of 3681  
this section and has no guardian, the information, the 3682  
recommendation of the chief clinical officer, and the concurring 3683  
judgment of a licensed physician who is not a full-time employee 3684  
of the state may be provided to the probate court or criminal 3685  
court in the county in which the hospital is located, which may 3686  
approve the surgery. Before approving the surgery, the court 3687  
shall notify the Ohio protection and advocacy system created by 3688  
section 5123.60 of the Revised Code, and shall notify the 3689  
patient of the rights to consult with counsel, to have counsel 3690  
appointed by the court if the patient is indigent, and to 3691  
contest the recommendation of the chief clinical officer. 3692

(D) If, in a medical emergency, and after providing the 3693  
information required under division (A) of this section to the 3694  
patient, it is the judgment of one licensed physician that delay 3695  
in obtaining surgery would create a grave danger to the health 3696  
of the patient, it may be administered without the consent of 3697  
the patient or the patient's guardian if the necessary 3698  
information is provided to the patient's spouse or next of kin 3699  
to enable that person to give informed, intelligent, and knowing 3700  
written consent. If no spouse or next of kin can reasonably be 3701  
contacted, or if the spouse or next of kin is contacted, but 3702  
refuses to consent, the surgery may be performed upon the 3703  
written authorization of the chief clinical officer or, in a 3704  
nonpublic hospital, upon the written authorization of the 3705  
attending physician responsible for the patient's care, and 3706  
after the approval of the probate court or criminal court has 3707  
been obtained. However, if delay in obtaining court approval 3708  
would create a grave danger to the life of the patient, the 3709

chief clinical officer or, in a nonpublic hospital, the 3710  
attending physician responsible for the patient's care may 3711  
authorize surgery, in writing, without court approval. If the 3712  
surgery is authorized without court approval, the chief clinical 3713  
officer or the attending physician who made the authorization 3714  
and the physician who performed the surgery shall each execute 3715  
an affidavit describing the circumstances constituting the 3716  
emergency and warranting the surgery and the circumstances 3717  
warranting their not obtaining prior court approval. The 3718  
affidavit shall be filed with the court with which the request 3719  
for prior approval would have been filed within five court days 3720  
after the surgery, and a copy of the affidavit shall be placed 3721  
in the patient's file and be given to the guardian, spouse, or 3722  
next of kin of the patient, to the hospital at which the surgery 3723  
was performed, and to the Ohio protection and advocacy system as 3724  
defined in section 5123.60 of the Revised Code. 3725

(E) Major aversive interventions shall not be used unless 3726  
a patient continues to engage in behavior destructive to self or 3727  
others after other forms of therapy have been attempted. Major 3728  
aversive interventions may be applied if approved by the 3729  
director of ~~mental-behavioral health-and-addiction services~~. 3730  
Major aversive interventions shall not be applied to a voluntary 3731  
patient without the informed, intelligent, and knowing written 3732  
consent of the patient or the patient's guardian. 3733

(F) Unless there is substantial risk of physical harm to 3734  
self or others, or other than under division (D) of this 3735  
section, this chapter does not authorize any form of compulsory 3736  
medical, psychological, or psychiatric treatment of any patient 3737  
who is being treated by spiritual means through prayer alone in 3738  
accordance with a recognized religious method of healing without 3739  
specific probate court or criminal court authorization. 3740

(G) For purposes of this section, "convulsive therapy" 3741  
does not include defibrillation. 3742

**Sec. 5122.29.** All patients hospitalized or committed 3743  
pursuant to this chapter have the following rights: 3744

(A) The right to a written list of all rights enumerated 3745  
in this chapter, to that person, that person's legal guardian, 3746  
and that person's counsel. If the person is unable to read, the 3747  
list shall be read and explained to the person. 3748

(B) The right at all times to be treated with 3749  
consideration and respect for the patient's privacy and dignity, 3750  
including without limitation, the following: 3751

(1) At the time a person is taken into custody for 3752  
diagnosis, detention, or treatment under Chapter 5122. of the 3753  
Revised Code, the person taking that person into custody shall 3754  
take reasonable precautions to preserve and safeguard the 3755  
personal property in the possession of or on the premises 3756  
occupied by that person; 3757

(2) A person who is committed, voluntarily or 3758  
involuntarily, shall be given reasonable protection from assault 3759  
or battery by any other person. 3760

(C) The right to communicate freely with and be visited at 3761  
reasonable times by the patient's private counsel or personnel 3762  
of the Ohio protection and advocacy system and, unless prior 3763  
probate court or criminal court restriction has been obtained, 3764  
to communicate freely with and be visited at reasonable times by 3765  
the patient's personal physician or psychologist. 3766

(D) The right to communicate freely with others, unless 3767  
specifically restricted in the patient's treatment plan for 3768  
clear treatment reasons, including without limitation the 3769

following:	3770
(1) To receive visitors at reasonable times;	3771
(2) To have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed.	3772 3773 3774 3775
(E) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed.	3776 3777 3778 3779 3780
(F) The right to the following personal privileges consistent with health and safety:	3781 3782
(1) To wear the patient's own clothes and maintain the patient's own personal effects;	3783 3784
(2) To be provided an adequate allowance for or allotment of neat, clean, and seasonable clothing if unable to provide the patient's own;	3785 3786 3787
(3) To maintain the patient's personal appearance according to the patient's own personal taste, including head and body hair;	3788 3789 3790
(4) To keep and use personal possessions, including toilet articles;	3791 3792
(5) To have access to individual storage space for the patient's private use;	3793 3794
(6) To keep and spend a reasonable sum of the patient's own money for expenses and small purchases;	3795 3796

(7) To receive and possess reading materials without 3797  
censorship, except when the materials create a clear and present 3798  
danger to the safety of persons in the facility. 3799

(G) The right to reasonable privacy, including both 3800  
periods of privacy and places of privacy. 3801

(H) The right to free exercise of religious worship within 3802  
the facility, including a right to services and sacred texts 3803  
that are within the reasonable capacity of the facility to 3804  
supply, provided that no patient shall be coerced into engaging 3805  
in any religious activities. 3806

(I) The right to social interaction with members of either 3807  
sex, subject to adequate supervision, unless such social 3808  
interaction is specifically withheld under a patient's written 3809  
treatment plan for clear treatment reasons. 3810

As used in this section, "clear treatment reasons" means 3811  
that permitting the patient to communicate freely with others 3812  
will present a substantial risk of physical harm to the patient 3813  
or others or will substantially preclude effective treatment of 3814  
the patient. If a right provided under this section is 3815  
restricted or withheld for clear treatment reasons, the 3816  
patient's written treatment plan shall specify the treatment 3817  
designed to eliminate the restriction or withholding of the 3818  
right at the earliest possible time. 3819

**Sec. 5122.31.** (A) All certificates, applications, records, 3820  
and reports made for the purpose of this chapter and sections 3821  
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 3822  
Code, other than probate court or criminal court journal entries 3823  
or probate court or criminal court docket entries, and directly 3824  
or indirectly identifying a patient or former patient or person 3825

whose hospitalization or commitment has been sought under this 3826  
chapter, shall be kept confidential and shall not be disclosed 3827  
by any person except: 3828

(1) If the person identified, or the person's legal 3829  
guardian, if any, or if the person is a minor, the person's 3830  
parent or legal guardian, consents, and if the disclosure is in 3831  
the best interests of the person, as may be determined by the 3832  
probate court or criminal court for judicial records and by the 3833  
chief clinical officer for medical records; 3834

(2) When disclosure is provided for in this chapter or 3835  
Chapters 340. or 5119. of the Revised Code or in accordance with 3836  
other provisions of state or federal law authorizing such 3837  
disclosure; 3838

(3) That hospitals, boards of alcohol, drug addiction, and 3839  
mental health services, and community mental health services 3840  
providers may release necessary medical information to insurers 3841  
and other third-party payers, including government entities 3842  
responsible for processing and authorizing payment, to obtain 3843  
payment for goods and services furnished to the patient; 3844

(4) Pursuant to a probate court or criminal court order 3845  
signed by a judge; 3846

(5) That a patient shall be granted access to the 3847  
patient's own psychiatric and medical records, unless access 3848  
specifically is restricted in a patient's treatment plan for 3849  
clear treatment reasons; 3850

(6) That hospitals and other institutions and facilities 3851  
within the department of behavioral health may exchange 3852  
psychiatric records and other pertinent information with other 3853  
hospitals, institutions, and facilities of the department, and 3854

with community mental health services providers and boards of 3855  
alcohol, drug addiction, and mental health services with which 3856  
the department has a current agreement for patient care or 3857  
services. Records and information that may be released pursuant 3858  
to this division shall be limited to medication history, 3859  
physical health status and history, financial status, summary of 3860  
course of treatment in the hospital, summary of treatment needs, 3861  
and a discharge summary, if any. 3862

(7) That hospitals within the department and other 3863  
institutions and facilities within the department may exchange 3864  
psychiatric records and other pertinent information with payers 3865  
and other providers of treatment, health services, and recovery 3866  
supports if the purpose of the exchange is to facilitate 3867  
continuity of care for a patient or for the emergency treatment 3868  
of an individual; 3869

(8) That a patient's family member who is involved in the 3870  
provision, planning, and monitoring of services to the patient 3871  
may receive medication information, a summary of the patient's 3872  
diagnosis and prognosis, and a list of the services and 3873  
personnel available to assist the patient and the patient's 3874  
family, if the patient's treating physician determines that the 3875  
disclosure would be in the best interests of the patient. No 3876  
such disclosure shall be made unless the patient is notified 3877  
first and receives the information and does not object to the 3878  
disclosure. 3879

(9) That community mental health services providers may 3880  
exchange psychiatric records and certain other information with 3881  
the board of alcohol, drug addiction, and mental health services 3882  
and other services providers in order to provide services to a 3883  
person involuntarily committed to a board. Release of records 3884

under this division shall be limited to medication history, 3885  
physical health status and history, financial status, summary of 3886  
course of treatment, summary of treatment needs, and discharge 3887  
summary, if any. 3888

(10) That information may be disclosed to the executor or 3889  
the administrator of an estate of a deceased patient when the 3890  
information is necessary to administer the estate; 3891

(11) That records in the possession of the Ohio history 3892  
connection may be released to the closest living relative of a 3893  
deceased patient upon request of that relative; 3894

(12) That records pertaining to the patient's diagnosis, 3895  
course of treatment, treatment needs, and prognosis shall be 3896  
disclosed and released to the appropriate prosecuting attorney 3897  
if the patient was committed pursuant to section 2945.38, 3898  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or 3899  
to the attorney designated by the board for proceedings pursuant 3900  
to involuntary commitment under this chapter. 3901

(13) That the department of behavioral health may exchange 3902  
psychiatric hospitalization records, other mental health 3903  
treatment records, and other pertinent information with the 3904  
department of rehabilitation and correction and with the 3905  
department of youth services to ensure continuity of care for 3906  
inmates or offenders who are receiving mental health services in 3907  
an institution of the department of rehabilitation and 3908  
correction or the department of youth services and may exchange 3909  
psychiatric hospitalization records, other mental health 3910  
treatment records, and other pertinent information with boards 3911  
of alcohol, drug addiction, and mental health services and 3912  
community mental health services providers to ensure continuity 3913  
of care for inmates or offenders who are receiving mental health 3914

services in an institution and are scheduled for release within 3915  
six months. The release of records under this division is 3916  
limited to records regarding an inmate's or offender's 3917  
medication history, physical health status and history, summary 3918  
of course of treatment, summary of treatment needs, and a 3919  
discharge summary, if any; 3920

(14) That records and reports relating to a person who has 3921  
been deceased for fifty years or more are no longer considered 3922  
confidential. 3923

(B) Before records are disclosed pursuant to divisions (A) 3924  
(3), (6), and (9) of this section, the custodian of the records 3925  
shall attempt to obtain the patient's consent for the 3926  
disclosure. No person shall reveal the contents of a medical 3927  
record of a patient except as authorized by law. 3928

(C) The managing officer of a hospital who releases 3929  
necessary medical information under division (A) (3) of this 3930  
section to allow an insurance carrier or other third party payor 3931  
to comply with section 5121.43 of the Revised Code shall neither 3932  
be subject to criminal nor civil liability. 3933

**Sec. 5122.311.** (A) Notwithstanding any provision of the 3934  
Revised Code to the contrary, if, on or after April 8, 2004, an 3935  
individual is found by a probate court or criminal court to be a 3936  
person with a mental illness subject to court order or becomes 3937  
an involuntary patient other than one who is a patient only for 3938  
purposes of observation, the ~~probate~~-judge who made the 3939  
adjudication or the chief clinical officer of the hospital, 3940  
community mental health services provider, or facility in which 3941  
the person is an involuntary patient shall notify the office of 3942  
the attorney general, on the form described in division (C) of 3943  
this section, of the identity of the individual. The 3944

notification shall be transmitted by the judge or the chief 3945  
clinical officer not later than seven days after the 3946  
adjudication or commitment. 3947

(B) The office of the attorney general shall compile and 3948  
maintain the notices it receives under division (A) of this 3949  
section and the notices shall be used for the purpose of 3950  
conducting incompetency records checks pursuant to section 3951  
311.41 of the Revised Code. The notices and the information they 3952  
contain are confidential, except as provided in this division, 3953  
and are not public records. 3954

(C) The attorney general, by rule adopted under Chapter 3955  
119. of the Revised Code, shall prescribe and make available to 3956  
all ~~probate~~ judges of probate courts and criminal courts and all 3957  
chief clinical officers a form to be used by them for the 3958  
purpose of making the notifications required by division (A) of 3959  
this section. 3960

**Sec. 5122.35.** (A) In a case in which the jurisdiction of a 3961  
court has not been specifically given or the procedure provided 3962  
for, the court in the county in which a person alleged to be 3963  
mentally ill is found shall have full, complete, and general 3964  
jurisdiction to make disposition of such person in accordance 3965  
with the procedure prescribed by Chapter 5122. of the Revised 3966  
Code. 3967

(B) When an affidavit is filed in the probate court or 3968  
criminal court as provided in section 5122.11 of the Revised 3969  
Code, and the person alleged to be mentally ill is detained in a 3970  
hospital located in another county, the probate court or 3971  
criminal court of the county in which such hospital is located 3972  
shall, upon the request of the court receiving the affidavit, 3973  
hold a hearing and make disposition of such person in accordance 3974

with Chapter 5122. of the Revised Code. 3975

**Sec. 5122.36.** If the legal residence of a person with a 3976  
mental illness is in another county of the state, the necessary 3977  
expense of the person's return is a proper charge against the 3978  
county of legal residence. If an adjudication and order of 3979  
hospitalization by the probate court or criminal court of the 3980  
county of temporary residence are required, the regular probate 3981  
court or criminal court fees and expenses incident to the order 3982  
of hospitalization under this chapter and any other expense 3983  
incurred on the person's behalf shall be charged to and paid by 3984  
the county of the person's legal residence upon the approval and 3985  
certification of the ~~probate~~ judge of the probate court or the 3986  
criminal court of the county of the person's legal residence. 3987  
The ordering court shall send to the probate court or the 3988  
criminal court of the person's county of legal residence a 3989  
certified copy of the commitment order from the ordering court. 3990  
The receiving court shall enter and record the commitment order. 3991  
The certified commitment order is prima facie evidence of the 3992  
residence of the person. When the residence of the person cannot 3993  
be established as represented by the ordering court, the matter 3994  
of residence shall be referred to the department of behavioral 3995  
health for investigation and determination. 3996

**Sec. 5122.38.** Each individual now or formerly hospitalized 3997  
pursuant to this chapter or former Chapter 5123. of the Revised 3998  
Code, is entitled to an adjudication of competency or 3999  
incompetency or termination of guardianship upon written request 4000  
by any such individual, ~~his~~ the individual's guardian, or the 4001  
chief clinical officer to the probate court or criminal court. 4002  
The court, on its own motion, may initiate such a hearing. 4003

Upon filing of such application, or on the probate court's 4004

or criminal court's own motion, notice of the purpose, time, and 4005  
place of the hearing shall be given to the person upon whose 4006  
affidavit such adjudication was made, to the guardian of the 4007  
applicant, and to ~~his~~the person's spouse at ~~his~~the spouse's 4008  
residence, if such address is known. 4009

Upon hearing, if it is proven that such applicant is 4010  
competent, the probate court or criminal court shall so find and 4011  
enter the finding on its journal. The adjudicating court shall 4012  
send a transcript of the adjudication to the county of the 4013  
patient's residence. 4014

**Sec. 5122.41.** The probate court or criminal court, upon 4015  
making an order hospitalizing a person under this chapter, shall 4016  
immediately transmit to the chief clinical officer of the 4017  
hospital, copies, under ~~his~~the court's official seal, of court 4018  
papers in the case, including the certificate of the medical 4019  
witnesses and of ~~his~~the court's findings in the case. 4020

Upon hospitalization, the chief clinical officer of the 4021  
hospital to which the patient is admitted shall take possession 4022  
of all money and other valuables that may be upon the person of 4023  
the patient, and shall within ten days file a list thereof with 4024  
the ~~probate~~judge of the probate court or the criminal court of 4025  
the county of which the patient is a resident. If the amount of 4026  
money is fifty dollars or less it shall be retained and expended 4027  
by the chief clinical officer of the hospital for the benefit of 4028  
the patient. Unless a guardian of the estate of the patient has 4029  
already been appointed, the ~~probate~~judge of the probate court 4030  
or the criminal court may, upon ~~his~~the judge's own motion and 4031  
without notice, appoint a special guardian of the estate of the 4032  
patient. Any special guardian, before being appointed, shall 4033  
file a bond approved by the probate judge in the same amount as 4034

is required by section 2109.04 of the Revised Code. A special 4035  
guardian as provided for in this section, and while acting as 4036  
such, shall be governed by all laws applicable to guardians of 4037  
the estates of either minors or incompetents. The special 4038  
guardian shall be allowed such compensation for ~~his~~the special 4039  
guardian's services as the probate court or criminal court 4040  
thinks reasonable, provided ~~he~~the special guardian forthwith 4041  
performs all the duties incumbent upon ~~him~~the special guardian. 4042

**Sec. 5122.43.** (A) Costs, fees, and expenses of all 4043  
proceedings held under this chapter shall be paid as follows: 4044

(1) To police and health officers, other than sheriffs or 4045  
their deputies, the same fees allowed to constables, to be paid 4046  
upon the approval of the ~~probate~~judge of the probate court or 4047  
the criminal court; 4048

(2) To sheriffs or their deputies, the same fees allowed 4049  
for similar services in the court of common pleas, county court, 4050  
or municipal court; 4051

(3) To physicians or licensed clinical psychologists 4052  
acting as expert witnesses and to other expert witnesses 4053  
designated by the probate court or criminal court, an amount 4054  
determined by the probate court or criminal court; 4055

(4) To other witnesses, the same fees and mileage as for 4056  
attendance at the court of common pleas, county court, or 4057  
municipal court, to be paid upon the approval of the ~~probate~~judge 4058  
of the probate court or the criminal court; 4059

(5) To a person, other than the sheriff or the sheriff's 4060  
deputies, for taking a person with a mental illness to a 4061  
hospital or removing a person with a mental illness from a 4062  
hospital, the actual necessary expenses incurred, specifically 4063

itemized, and approved by the ~~probate-judge~~ of the probate court 4064  
or the criminal court; 4065

(6) To assistants who convey persons with a mental illness 4066  
to the hospital when authorized by the ~~probate-judge~~ of the 4067  
probate court or the criminal court, a fee set by the probate 4068  
court or criminal court, provided the assistants are not drawing 4069  
a salary from the state or any political subdivision of the 4070  
state, and their actual necessary expenses incurred, provided 4071  
that the expenses are specifically itemized and approved by the 4072  
~~probate-judge~~ of the probate court or the criminal court; 4073

(7) To an attorney appointed by the probate division for 4074  
an indigent who allegedly is a person with a mental illness 4075  
pursuant to any section of this chapter or a person experiencing 4076  
alcohol and other drug abuse and who may be ordered under 4077  
sections 5119.91 to 5119.98 of the Revised Code to undergo 4078  
treatment, the fees that are determined by the probate division. 4079  
When those indigent persons are before the probate court or 4080  
criminal court, all filing and recording fees shall be waived. 4081

(8) To a referee who is appointed to conduct proceedings 4082  
under this chapter that involve a respondent whose domicile is 4083  
or, before the respondent's hospitalization, was not the county 4084  
in which the proceedings are held, compensation as fixed by the 4085  
~~probate-division~~ court or criminal court, but not more than the 4086  
compensation paid for similar proceedings for respondents whose 4087  
domicile is in the county in which the proceedings are held; 4088

(9) To a court reporter appointed to make a transcript of 4089  
proceedings under this chapter, the compensation and fees 4090  
allowed in other cases under section 2101.08 of the Revised 4091  
Code. 4092

(B) A county shall pay for the costs, fees, and expenses 4093  
described in division (A) of this section with money 4094  
appropriated pursuant to section 2101.11 of the Revised Code. A 4095  
county may seek reimbursement from the department of ~~mental-~~ 4096  
behavioral health and addiction services by submitting a request 4097  
and certification by the county auditor of the costs, fees, and 4098  
expenses to the department within two months of the date the 4099  
costs, fees, and expenses are incurred by the county. 4100

Each fiscal year, based on past allocations, historical 4101  
utilization, and other factors the department considers 4102  
appropriate, the department shall allocate for each county an 4103  
amount for reimbursements under this section. A county's 4104  
allocation may be zero. The department shall set aside an amount 4105  
in addition to the allocations to cover court costs associated 4106  
with proceedings held under this chapter for counties that 4107  
received an allocation of zero but that incurred expenditures 4108  
authorized by the department. The total of all the allocations 4109  
plus the additional amount set aside shall equal the amount 4110  
appropriated for the fiscal year to the department specifically 4111  
for the purposes of this section. 4112

On receipt, the department shall review each request for 4113  
reimbursement and prepare a voucher for the amount of the costs, 4114  
fees, and expenses incurred by the county, provided that the 4115  
total amount of money paid to all counties in each fiscal year 4116  
shall not exceed the total amount of moneys specifically 4117  
appropriated to the department for these purposes. 4118

The department's total reimbursement to each county shall 4119  
be the lesser of the full amount requested or either the amount 4120  
allocated for the county under this division, or, for counties 4121  
that received an allocation of zero, the amount approved by the 4122

department. In addition, the department shall distribute any 4123  
surplus remaining from the money appropriated for the fiscal 4124  
year to the department for the purposes of this section as 4125  
follows to counties whose full requests exceed their 4126  
allocations: 4127

(1) If the surplus is sufficient to reimburse such 4128  
counties the full amount of their requests, each such county 4129  
shall receive the full amount of its request; 4130

(2) If the surplus is insufficient, each such county shall 4131  
receive a percentage of the surplus determined by dividing the 4132  
difference between the county's full request and its allocation 4133  
by the difference between the total of the full requests of all 4134  
such counties and the total of the amounts allocated for all 4135  
such counties. 4136

The department may adopt rules in accordance with Chapter 4137  
119. of the Revised Code to implement the payment of costs, 4138  
fees, and expenses under this section. 4139

**Sec. 5123.01.** As used in this chapter: 4140

(A) "Chief medical officer" means the licensed physician 4141  
appointed by the managing officer of an institution for persons 4142  
with intellectual disabilities with the approval of the director 4143  
of developmental disabilities to provide medical treatment for 4144  
residents of the institution. 4145

(B) "Chief program director" means a person with special 4146  
training and experience in the diagnosis and management of 4147  
persons with developmental disabilities, certified according to 4148  
division (C) of this section in at least one of the designated 4149  
fields, and appointed by the managing officer of an institution 4150  
for persons with intellectual disabilities with the approval of 4151

the director to provide habilitation and care for residents of 4152  
the institution. 4153

(C) "Comprehensive evaluation" means a study, including a 4154  
sequence of observations and examinations, of a person leading 4155  
to conclusions and recommendations formulated jointly, with 4156  
dissenting opinions if any, by a group of persons with special 4157  
training and experience in the diagnosis and management of 4158  
persons with developmental disabilities, which group shall 4159  
include individuals who are professionally qualified in the 4160  
fields of medicine, psychology, and social work, together with 4161  
such other specialists as the individual case may require. 4162

(D) "Education" means the process of formal training and 4163  
instruction to facilitate the intellectual and emotional 4164  
development of residents. 4165

(E) "Habilitation" means the process by which the staff of 4166  
the institution assists the resident in acquiring and 4167  
maintaining those life skills that enable the resident to cope 4168  
more effectively with the demands of the resident's own person 4169  
and of the resident's environment and in raising the level of 4170  
the resident's physical, mental, social, and vocational 4171  
efficiency. Habilitation includes but is not limited to programs 4172  
of formal, structured education and training. 4173

(F) "Health officer" means any public health physician, 4174  
public health nurse, or other person authorized or designated by 4175  
a city or general health district. 4176

(G) "Home and community-based services" means medicaid- 4177  
funded home and community-based services specified in division 4178  
(A) (1) of section 5166.20 of the Revised Code provided under the 4179  
medicaid waiver components the department of developmental 4180

disabilities administers pursuant to section 5166.21 of the 4181  
Revised Code. Except as provided in section 5123.0412 of the 4182  
Revised Code, home and community-based services provided under 4183  
the medicaid waiver component known as the transitions 4184  
developmental disabilities waiver are to be considered to be 4185  
home and community-based services for the purposes of this 4186  
chapter, and Chapters 5124. and 5126. of the Revised Code, only 4187  
to the extent, if any, provided by the contract required by 4188  
section 5166.21 of the Revised Code regarding the waiver. 4189

(H) "ICF/IID" and "ICF/IID services" have the same 4190  
meanings as in section 5124.01 of the Revised Code. 4191

(I) "Indigent person" means a person who is unable, 4192  
without substantial financial hardship, to provide for the 4193  
payment of an attorney and for other necessary expenses of legal 4194  
representation, including expert testimony. 4195

(J) "Institution" means a public or private facility, or a 4196  
part of a public or private facility, that is licensed by the 4197  
appropriate state department and is equipped to provide 4198  
residential habilitation, care, and treatment for persons with 4199  
intellectual disabilities. 4200

(K) "Licensed physician" means a person who holds a valid 4201  
license issued under Chapter 4731. of the Revised Code 4202  
authorizing the person to practice medicine and surgery or 4203  
osteopathic medicine and surgery, or a medical officer of the 4204  
government of the United States while in the performance of the 4205  
officer's official duties. 4206

(L) "Managing officer" means a person who is appointed by 4207  
the director of developmental disabilities to be in executive 4208  
control of an institution under the jurisdiction of the 4209

department of developmental disabilities. 4210

(M) "Medicaid case management services" means case 4211  
management services provided to an individual with a 4212  
developmental disability that the state medicaid plan requires. 4213

(N) "Intellectual disability" means a disability 4214  
characterized by having significantly subaverage general 4215  
intellectual functioning existing concurrently with deficiencies 4216  
in adaptive behavior, manifested during the developmental 4217  
period. 4218

(O) "Person with an intellectual disability subject to 4219  
institutionalization by court order" means a person eighteen 4220  
years of age or older with at least a moderate level of 4221  
intellectual disability and in relation to whom, because of the 4222  
person's disability, either of the following conditions exists: 4223

(1) The person represents a very substantial risk of 4224  
physical impairment or injury to self as manifested by evidence 4225  
that the person is unable to provide for and is not providing 4226  
for the person's most basic physical needs and that provision 4227  
for those needs is not available in the community; 4228

(2) The person needs and is susceptible to significant 4229  
habilitation in an institution. 4230

(P) "Moderate level of intellectual disability" means the 4231  
condition in which a person, following a comprehensive 4232  
evaluation, is found to have at least moderate deficits in 4233  
overall intellectual functioning, as indicated by a full-scale 4234  
intelligence quotient test score of fifty-five or below, and at 4235  
least moderate deficits in adaptive behavior, as determined in 4236  
accordance with the criteria established in the fifth edition of 4237  
the diagnostic and statistical manual of mental disorders 4238

published by the American psychiatric association. 4239

(Q) "Developmental disability" means a severe, chronic 4240  
disability that is characterized by all of the following: 4241

(1) It is attributable to a mental or physical impairment 4242  
or a combination of mental and physical impairments, other than 4243  
a mental or physical impairment solely caused by mental illness, 4244  
as defined in division (A) of section 5122.01 of the Revised 4245  
Code. 4246

(2) It is manifested before age twenty-two. 4247

(3) It is likely to continue indefinitely. 4248

(4) It results in one of the following: 4249

(a) In the case of a person under three years of age, at 4250  
least one developmental delay, as defined in rules adopted under 4251  
section 5123.011 of the Revised Code, or a diagnosed physical or 4252  
mental condition that has a high probability of resulting in a 4253  
developmental delay, as defined in those rules; 4254

(b) In the case of a person at least three years of age 4255  
but under six years of age, at least two developmental delays, 4256  
as defined in rules adopted under section 5123.011 of the 4257  
Revised Code; 4258

(c) In the case of a person six years of age or older, a 4259  
substantial functional limitation in at least three of the 4260  
following areas of major life activity, as appropriate for the 4261  
person's age: self-care, receptive and expressive language, 4262  
learning, mobility, self-direction, capacity for independent 4263  
living, and, if the person is at least sixteen years of age, 4264  
capacity for economic self-sufficiency. 4265

(5) It causes the person to need a combination and 4266

sequence of special, interdisciplinary, or other type of care, 4267  
treatment, or provision of services for an extended period of 4268  
time that is individually planned and coordinated for the 4269  
person. 4270

"Developmental disability" includes intellectual 4271  
disability. 4272

(R) "State institution" means an institution that is tax- 4273  
supported and under the jurisdiction of the department of 4274  
developmental disabilities. 4275

(S) "Residence" and "legal residence" have the same 4276  
meaning as "legal settlement," which is acquired by residing in 4277  
Ohio for a period of one year without receiving general 4278  
assistance prior to July 17, 1995, under former Chapter 5113. of 4279  
the Revised Code, without receiving financial assistance prior 4280  
to December 31, 2017, under former Chapter 5115. of the Revised 4281  
Code, or assistance from a private agency that maintains records 4282  
of assistance given. A person having a legal settlement in the 4283  
state shall be considered as having legal settlement in the 4284  
assistance area in which the person resides. No adult person 4285  
coming into this state and having a spouse or minor children 4286  
residing in another state shall obtain a legal settlement in 4287  
this state as long as the spouse or minor children are receiving 4288  
public assistance, care, or support at the expense of the other 4289  
state or its subdivisions. For the purpose of determining the 4290  
legal settlement of a person who is living in a public or 4291  
private institution or in a home subject to licensing by the 4292  
department of job and family services, the department of ~~mental-~~ 4293  
behavioral health and addiction services, or the department of 4294  
developmental disabilities, the residence of the person shall be 4295  
considered as though the person were residing in the county in 4296

which the person was living prior to the person's entrance into 4297  
the institution or home. Settlement once acquired shall continue 4298  
until a person has been continuously absent from Ohio for a 4299  
period of one year or has acquired a legal residence in another 4300  
state. A woman who marries a man with legal settlement in any 4301  
county immediately acquires the settlement of her husband. The 4302  
legal settlement of a minor is that of the parents, surviving 4303  
parent, sole parent, parent who is designated the residential 4304  
parent and legal custodian by a court, other adult having 4305  
permanent custody awarded by a court, or guardian of the person 4306  
of the minor, provided that: 4307

(1) A minor female who marries shall be considered to have 4308  
the legal settlement of her husband and, in the case of death of 4309  
her husband or divorce, she shall not thereby lose her legal 4310  
settlement obtained by the marriage. 4311

(2) A minor male who marries, establishes a home, and who 4312  
has resided in this state for one year without receiving general 4313  
assistance prior to July 17, 1995, under former Chapter 5113. of 4314  
the Revised Code or assistance from a private agency that 4315  
maintains records of assistance given shall be considered to 4316  
have obtained a legal settlement in this state. 4317

(3) The legal settlement of a child under eighteen years 4318  
of age who is in the care or custody of a public or private 4319  
child caring agency shall not change if the legal settlement of 4320  
the parent changes until after the child has been in the home of 4321  
the parent for a period of one year. 4322

No person, adult or minor, may establish a legal 4323  
settlement in this state for the purpose of gaining admission to 4324  
any state institution. 4325

(T) (1) "Resident" means, subject to division (T) (2) of 4326  
this section, a person who is admitted either voluntarily or 4327  
involuntarily to an institution or other facility pursuant to 4328  
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 4329  
Code subsequent to a finding of not guilty by reason of insanity 4330  
or incompetence to stand trial or under this chapter who is 4331  
under observation or receiving habilitation and care in an 4332  
institution. 4333

(2) "Resident" does not include a person admitted to an 4334  
institution or other facility under section 2945.39, 2945.40, 4335  
2945.401, or 2945.402 of the Revised Code to the extent that the 4336  
reference in this chapter to resident, or the context in which 4337  
the reference occurs, is in conflict with any provision of 4338  
sections 2945.37 to 2945.402 of the Revised Code. 4339

(U) "Respondent" means the person whose detention, 4340  
commitment, or continued commitment is being sought in any 4341  
proceeding under this chapter. 4342

(V) "Working day" and "court day" mean Monday, Tuesday, 4343  
Wednesday, Thursday, and Friday, except when such day is a legal 4344  
holiday. 4345

(W) "Prosecutor" means the prosecuting attorney, village 4346  
solicitor, city director of law, or similar chief legal officer 4347  
who prosecuted a criminal case in which a person was found not 4348  
guilty by reason of insanity, who would have had the authority 4349  
to prosecute a criminal case against a person if the person had 4350  
not been found incompetent to stand trial, or who prosecuted a 4351  
case in which a person was found guilty. 4352

(X) ~~"Court"~~ "Probate court" means the probate division of 4353  
the court of common pleas. 4354

(Y) "Supported living" and "residential services" have the same meanings as in section 5126.01 of the Revised Code.

(Z) "Criminal court" has the same meaning as in section 5122.01 of the Revised Code.

**Sec. 5123.21.** The director of developmental disabilities may transfer or authorize the transfer of an involuntary resident or a consenting voluntary resident from one public institution to another or to an institution other than a public institution or other facility, if the director determines that it would be consistent with the habilitation needs of the resident to do so.

Before an involuntary resident may be transferred to a more restrictive setting, the managing officer of the institution shall file a motion with the probate court or criminal court requesting the court to amend its order of placement issued under section 5123.76 of the Revised Code. At the resident's request, the court shall hold a hearing on the motion at which the resident has the same rights as at a full hearing under section 5123.76 of the Revised Code.

Whenever a resident is transferred, the director shall give written notice of the transfer to the resident's legal guardian, parents, spouse, and counsel, or, if none is known, to the resident's nearest known relative or friend. If the resident is a minor, the director before making such a transfer shall make a minute of the order for the transfer and the reason for it upon its record and shall send a certified copy at least seven days prior to the transfer to the person shown by its record to have had the care or custody of the minor immediately prior to the minor's commitment. Whenever a consenting voluntary resident is transferred, the notification shall be given only at

the resident's request. The managing officer shall advise a 4385  
voluntary resident who is being transferred that the patient may 4386  
decide if such a notification shall be given. In all such 4387  
transfers, due consideration shall be given to the relationship 4388  
of the resident to the resident's family, legal guardian, or 4389  
friends, so as to maintain relationships and encourage visits 4390  
beneficial to the resident. 4391

**Sec. 5123.39.** If not otherwise furnished, the ~~probate~~ 4392  
judge of the probate court or the criminal court shall see that 4393  
each patient hospitalized under section 5123.76 of the Revised 4394  
Code is properly attired for transportation, and, in addition, 4395  
the institution shall be furnished a complete change of clothing 4396  
for such patient, which shall be paid for on the certificate of 4397  
the ~~probate~~ judge of the probate court or the criminal court and 4398  
the order of the county auditor from the county treasury. Such 4399  
clothing shall be new or as good as new. 4400

**Sec. 5123.57.** No guardianship or trusteeship appointment 4401  
shall be made under sections 5123.55 to 5123.59 of the Revised 4402  
Code and no person shall be accepted for service by a protector 4403  
under those sections unless a comprehensive evaluation has been 4404  
made in a clinic or other facility approved by the department of 4405  
developmental disabilities. The evaluation shall include a 4406  
medical, psychological, social, and educational evaluation, and 4407  
a copy of the evaluation shall be filed with the department. 4408

Any agency that is appointed as a guardian, trustee, or 4409  
conservator under sections 5123.55 to 5123.59 of the Revised 4410  
Code or accepted as a protector under those sections shall 4411  
provide for a review at least once each year in writing of the 4412  
physical, mental, and social condition of each person with a 4413  
developmental disability for whom it is acting as guardian, 4414

trustee, or protector. An agency providing protective services 4415  
under contract with the department shall file these reports with 4416  
the department of developmental disabilities. Any record of the 4417  
department or agency pertaining to a person with a developmental 4418  
disability shall not be a public record under section 149.43 of 4419  
the Revised Code. Information contained in those records shall 4420  
not be disclosed publicly in such a manner as to identify 4421  
individuals, but may be made available to persons approved by 4422  
the director of developmental disabilities or the probate court. 4423

**Sec. 5123.58.** An agency providing protective services 4424  
under contract with the department of developmental disabilities 4425  
may be nominated under any of the following conditions as 4426  
guardian, trustee, protector, conservator, or as trustee and 4427  
protector of a person with a developmental disability: 4428

(A) The person who needs or believes the person needs 4429  
protective service may make application in writing. 4430

(B) Any interested person may make application in writing 4431  
on behalf of a person with a developmental disability. 4432

(C) A parent may name the department or agency as guardian 4433  
or successor guardian in a will. 4434

(D) A parent may name the department or agency as 4435  
guardian, trustee, or protector, to assume such duties during 4436  
the parent's lifetime. 4437

If the results of the comprehensive evaluation required 4438  
under section 5123.57 of the Revised Code indicate that the 4439  
person named in the nomination is in need of protective 4440  
services, the agency or service either shall reject or accept 4441  
the nomination as guardian, trustee, or conservator, subject to 4442  
appointment by the probate court, or reject or accept the 4443

nomination as protector, or trustee and protector. 4444

At the time the nomination is accepted or when an 4445  
appointment is made by the probate court, the person with a 4446  
developmental disability and any person who made application for 4447  
service on behalf of the person with a developmental disability 4448  
under this section shall be informed by the agency, service, or 4449  
probate court of the procedure for terminating the appointment 4450  
or service. The agency or service shall cease to provide 4451  
protective service as a protector pursuant to nomination under 4452  
division (A), (B), or (D) of this section when a written request 4453  
for termination is received by the agency from or on behalf of 4454  
the person with a developmental disability. If the agency or 4455  
service believes the person to be in need of protective service, 4456  
the agency or service may file an application for guardianship, 4457  
trusteeship, or protectorship with the probate court. 4458  
Termination of any court appointment as guardian, trustee, or 4459  
protector shall be by order of the probate court. 4460

**Sec. 5123.61.** (A) As used in this section: 4461

(1) "Law enforcement agency" means the state highway 4462  
patrol, the police department of a municipal corporation, or a 4463  
county sheriff. 4464

(2) "Abuse" has the same meaning as in section 5123.50 of 4465  
the Revised Code, except that it includes a misappropriation, as 4466  
defined in that section. 4467

(3) "Neglect" has the same meaning as in section 5123.50 4468  
of the Revised Code. 4469

(B) The department of developmental disabilities shall 4470  
establish a registry office for the purpose of maintaining 4471  
reports of abuse, neglect, and other major unusual incidents 4472

made to the department under this section and reports received 4473  
from county boards of developmental disabilities under section 4474  
5126.31 of the Revised Code. The department shall establish 4475  
committees to review reports of abuse, neglect, and other major 4476  
unusual incidents. 4477

(C) (1) Any person listed in division (C) (2) of this 4478  
section, having reason to believe that an individual with a 4479  
developmental disability has suffered or faces a substantial 4480  
risk of suffering any wound, injury, disability, or condition of 4481  
such a nature as to reasonably indicate abuse or neglect of that 4482  
individual, shall immediately report or cause reports to be made 4483  
of such information to the entity specified in this division. 4484  
Except as provided in section 5120.173 of the Revised Code or as 4485  
otherwise provided in this division, the person making the 4486  
report shall make it to a law enforcement agency or to the 4487  
county board of developmental disabilities. If the report 4488  
concerns a resident of a facility operated by the department of 4489  
developmental disabilities the report shall be made either to a 4490  
law enforcement agency or to the department. If the report 4491  
concerns any act or omission of an employee of a county board of 4492  
developmental disabilities, the report immediately shall be made 4493  
to the department and to the county board. 4494

(2) All of the following persons are required to make a 4495  
report under division (C) (1) of this section: 4496

(a) Any physician, including a hospital intern or 4497  
resident, any dentist, podiatrist, chiropractor, practitioner of 4498  
a limited branch of medicine as specified in section 4731.15 of 4499  
the Revised Code, hospital administrator or employee of a 4500  
hospital, nurse licensed under Chapter 4723. of the Revised 4501  
Code, employee of an outpatient health facility as defined in 4502

section 5101.60 of the Revised Code, employee of a home health 4503  
agency, employee of a residential facility licensed under 4504  
section 5119.34 of the Revised Code that provides 4505  
accommodations, supervision, and personal care services for 4506  
three to sixteen unrelated adults, or employee of a community 4507  
mental health facility; 4508

(b) Any school teacher or school authority, licensed 4509  
professional clinical counselor, licensed professional 4510  
counselor, independent social worker, social worker, independent 4511  
marriage and family therapist, marriage and family therapist, 4512  
psychologist, attorney, peace officer, coroner, or residents' 4513  
rights advocate as defined in section 3721.10 of the Revised 4514  
Code; 4515

(c) A superintendent, board member, or employee of a 4516  
county board of developmental disabilities; an administrator, 4517  
board member, or employee of a residential facility licensed 4518  
under section 5123.19 of the Revised Code; an administrator, 4519  
board member, or employee of any other public or private 4520  
provider of services to an individual with a developmental 4521  
disability, or any developmental disabilities employee, as 4522  
defined in section 5123.50 of the Revised Code; 4523

(d) A member of a citizen's advisory council established 4524  
at an institution or branch institution of the department of 4525  
developmental disabilities under section 5123.092 of the Revised 4526  
Code; 4527

(e) A member of the clergy who is employed in a position 4528  
that includes providing specialized services to an individual 4529  
with a developmental disability, while acting in an official or 4530  
professional capacity in that position, or a person who is 4531  
employed in a position that includes providing specialized 4532

services to an individual with a developmental disability and 4533  
who, while acting in an official or professional capacity, 4534  
renders spiritual treatment through prayer in accordance with 4535  
the tenets of an organized religion. 4536

(3) (a) The reporting requirements of this division do not 4537  
apply to employees of the Ohio protection and advocacy system. 4538

(b) An attorney or physician is not required to make a 4539  
report pursuant to division (C) (1) of this section concerning 4540  
any communication the attorney or physician receives from a 4541  
client or patient in an attorney-client or physician-patient 4542  
relationship, if, in accordance with division (A) or (B) of 4543  
section 2317.02 of the Revised Code, the attorney or physician 4544  
could not testify with respect to that communication in a civil 4545  
or criminal proceeding, except that the client or patient is 4546  
deemed to have waived any testimonial privilege under division 4547  
(A) or (B) of section 2317.02 of the Revised Code with respect 4548  
to that communication and the attorney or physician shall make a 4549  
report pursuant to division (C) (1) of this section, if both of 4550  
the following apply: 4551

(i) The client or patient, at the time of the 4552  
communication, is an individual with a developmental disability. 4553

(ii) The attorney or physician knows or suspects, as a 4554  
result of the communication or any observations made during that 4555  
communication, that the client or patient has suffered or faces 4556  
a substantial risk of suffering any wound, injury, disability, 4557  
or condition of a nature that reasonably indicates abuse or 4558  
neglect of the client or patient. 4559

(4) Any person who fails to make a report required under 4560  
division (C) of this section and who is a developmental 4561

disabilities employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by developmental disabilities employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the individual with a developmental disability and the individual's custodian, if known;

(2) The age of the individual with a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that an individual with a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that an individual with a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement

agency or the county board of developmental disabilities. If the 4591  
individual is a resident of a facility operated by the 4592  
department of developmental disabilities, the report shall be 4593  
made to a law enforcement agency or to the department. If the 4594  
report concerns any act or omission of an employee of a county 4595  
board of developmental disabilities, the report immediately 4596  
shall be made to the department and to the county board. 4597

(G) (1) Upon the receipt of a report concerning the 4598  
possible abuse or neglect of an individual with a developmental 4599  
disability, the law enforcement agency shall inform the county 4600  
board of developmental disabilities or, if the individual is a 4601  
resident of a facility operated by the department of 4602  
developmental disabilities, the department. 4603

(2) On receipt of a report under this section that 4604  
includes an allegation of action or inaction that may constitute 4605  
a crime under federal law or the law of this state, the 4606  
department of developmental disabilities shall notify the law 4607  
enforcement agency. 4608

(3) When a county board of developmental disabilities 4609  
receives a report under this section that includes an allegation 4610  
of action or inaction that may constitute a crime under federal 4611  
law or the law of this state, the superintendent of the board or 4612  
an individual the superintendent designates under division (H) 4613  
of this section shall notify the law enforcement agency. The 4614  
superintendent or individual shall notify the department of 4615  
developmental disabilities when it receives any report under 4616  
this section. 4617

(4) When a county board of developmental disabilities 4618  
receives a report under this section and believes that the 4619  
degree of risk to the person is such that the report is an 4620

emergency, the superintendent of the board or an employee of the 4621  
board the superintendent designates shall attempt a face-to-face 4622  
contact with the individual with a developmental disability who 4623  
allegedly is the victim within one hour of the board's receipt 4624  
of the report. 4625

(H) The superintendent of the board may designate an 4626  
individual to be responsible for notifying the law enforcement 4627  
agency and the department when the county board receives a 4628  
report under this section. 4629

(I) An adult with a developmental disability about whom a 4630  
report is made may be removed from the adult's place of 4631  
residence only by law enforcement officers who consider that the 4632  
adult's immediate removal is essential to protect the adult from 4633  
further injury or abuse or in accordance with the order of a 4634  
probate court made pursuant to section 5126.33 of the Revised 4635  
Code. 4636

(J) A law enforcement agency shall investigate each report 4637  
of abuse or neglect it receives under this section. In addition, 4638  
the department, in cooperation with law enforcement officials, 4639  
shall investigate each report regarding a resident of a facility 4640  
operated by the department to determine the circumstances 4641  
surrounding the injury, the cause of the injury, and the person 4642  
responsible. The investigation shall be in accordance with the 4643  
memorandum of understanding prepared under section 5126.058 of 4644  
the Revised Code. The department shall determine, with the 4645  
registry office which shall be maintained by the department, 4646  
whether prior reports have been made concerning an adult with a 4647  
developmental disability or other principals in the case. If the 4648  
department finds that the report involves action or inaction 4649  
that may constitute a crime under federal law or the law of this 4650

state, it shall submit a report of its investigation, in 4651  
writing, to the law enforcement agency. If the individual with a 4652  
developmental disability is an adult, with the consent of the 4653  
adult, the department shall provide such protective services as 4654  
are necessary to protect the adult. The law enforcement agency 4655  
shall make a written report of its findings to the department. 4656

If the individual with a developmental disability is an 4657  
adult and is not a resident of a facility operated by the 4658  
department, the county board of developmental disabilities shall 4659  
review the report of abuse or neglect in accordance with 4660  
sections 5126.30 to 5126.33 of the Revised Code and the law 4661  
enforcement agency shall make the written report of its findings 4662  
to the county board. 4663

(K) Any person or any hospital, institution, school, 4664  
health department, or agency participating in the making of 4665  
reports pursuant to this section, any person participating as a 4666  
witness in an administrative or judicial proceeding resulting 4667  
from the reports, or any person or governmental entity that 4668  
discharges responsibilities under sections 5126.31 to 5126.33 of 4669  
the Revised Code shall be immune from any civil or criminal 4670  
liability that might otherwise be incurred or imposed as a 4671  
result of such actions except liability for perjury, unless the 4672  
person or governmental entity has acted in bad faith or with 4673  
malicious purpose. 4674

(L) No employer or any person with the authority to do so 4675  
shall discharge, demote, transfer, prepare a negative work 4676  
performance evaluation, reduce pay or benefits, terminate work 4677  
privileges, or take any other action detrimental to an employee 4678  
or retaliate against an employee as a result of the employee's 4679  
having made a report under this section. This division does not 4680

preclude an employer or person with authority from taking action 4681  
with regard to an employee who has made a report under this 4682  
section if there is another reasonable basis for the action. 4683

(M) Reports made under this section are not public records 4684  
as defined in section 149.43 of the Revised Code. Information 4685  
contained in the reports on request shall be made available to 4686  
the individual who is the subject of the report, to the 4687  
individual's legal counsel, and to agencies authorized to 4688  
receive information in the report by the department or by a 4689  
county board of developmental disabilities. 4690

(N) Notwithstanding section 4731.22 of the Revised Code, 4691  
the physician-patient privilege shall not be a ground for 4692  
excluding evidence regarding the injuries or physical neglect of 4693  
an individual with a developmental disability or the cause 4694  
thereof in any judicial proceeding resulting from a report 4695  
submitted pursuant to this section. 4696

**Sec. 5123.70.** (A) A resident admitted pursuant to section 4697  
5123.69 of the Revised Code who requests ~~his~~the resident's own 4698  
release or whose release is requested in writing by ~~his~~the 4699  
resident's counsel, legal guardian, parent, spouse, or adult 4700  
next of kin shall be released forthwith except that: 4701

(1) If a resident was admitted on ~~his~~the resident's own 4702  
application and the request for release is made by a person 4703  
other than the resident, release may be made conditional upon 4704  
the agreement of the resident thereto if ~~his~~the resident's 4705  
continued institutionalization is supported by ~~his~~the resident's 4706  
most recent comprehensive evaluation; 4707

(2) If, within three court days from the receipt of the 4708  
request for release, the managing officer files an affidavit or 4709

causes an affidavit to be filed under section 5123.71 of the 4710  
Revised Code with the probate ~~division of the court of common~~ 4711  
~~pleas of the county where the resident has his residence or~~ 4712  
~~where he is institutionalized~~ or criminal court, release may be 4713  
postponed until a hearing can be held pursuant to section 4714  
5123.76 of the Revised Code. In such case, the request for 4715  
release shall substitute for the request for a probable cause 4716  
hearing under section 5123.75 of the Revised Code. 4717

A telephone communication to the probate division from the 4718  
managing officer of the institution or ~~his~~ the managing officer's 4719  
designee indicating that the required affidavit has been mailed 4720  
by certified mail shall be sufficient compliance with division 4721  
(A) (2) of this section. 4722

(B) Judicial proceedings for institutionalization shall 4723  
not be commenced with respect to a voluntary resident except 4724  
pursuant to division (A) (2) of this section. 4725

(C) Sections 5121.01 to 5121.10 of the Revised Code shall 4726  
apply to the persons received in a public institution on a 4727  
voluntary application. 4728

(D) The managing officer shall inform residents, parents, 4729  
guardians, and custodians of the right to release as provided in 4730  
this section and shall assist residents in making and presenting 4731  
requests for release. 4732

**Sec. 5123.71.** (A) (1) Proceedings for the involuntary 4733  
institutionalization of a person pursuant to sections 5123.71 to 4734  
5123.76 of the Revised Code shall be commenced by the filing of 4735  
an affidavit ~~with the probate division of the court of common~~ 4736  
~~pleas of the county where the person resides or where the person~~ 4737  
~~is institutionalized~~, in the manner and form prescribed by the 4738

department of developmental disabilities. The affidavit shall be 4739  
filed in either of the following manners: 4740

In a probate court of the county where the person resides 4741  
or where the person is institutionalized either on information 4742  
or actual knowledge, whichever is determined to be proper by the 4743  
court. The affidavit may be filed in a probate court only by a 4744  
person who has custody of the individual as a parent, guardian, 4745  
or service provider or by a person acting on behalf of the 4746  
department or a county board of developmental disabilities. ~~This~~ 4747  
~~section does not apply regarding the institutionalization of a~~ 4748  
~~person pursuant to section 2945.39, 2945.40, 2945.401, or~~ 4749  
~~2945.402 of the Revised Code.~~ 4750

In a criminal court by the trial court or prosecutor, 4751  
pursuant to division (B) (1) (a) (v) (I) of section 2945.38 of the 4752  
Revised Code. 4753

The affidavit shall contain an allegation setting forth 4754  
the specific category or categories under division (O) of 4755  
section 5123.01 of the Revised Code upon which the commencement 4756  
of proceedings is based and a statement of the factual ground 4757  
for the belief that the person is a person with an intellectual 4758  
disability subject to institutionalization by court order. 4759  
Except as provided in division (A) (2) of this section, the 4760  
affidavit shall be accompanied by both of the following: 4761

(a) A comprehensive evaluation report prepared by the 4762  
person's evaluation team that includes a statement by the 4763  
members of the team certifying that they have performed a 4764  
comprehensive evaluation of the person and that they are of the 4765  
opinion that the person is a person with an intellectual 4766  
disability subject to institutionalization by court order; 4767

(b) An assessment report prepared by the county board of 4768  
developmental disabilities under section 5123.711 of the Revised 4769  
Code specifying that the individual is in need of services on an 4770  
emergency or priority basis. 4771

(2) In lieu of the comprehensive evaluation report, the 4772  
affidavit may be accompanied by a written and sworn statement 4773  
that the person or the guardian of a person adjudicated 4774  
incompetent has refused to allow a comprehensive evaluation and 4775  
county board assessment and assessment reports. Immediately 4776  
after accepting an affidavit that is not accompanied by the 4777  
reports of a comprehensive evaluation and county board 4778  
assessment, the probate court or criminal court shall cause a 4779  
comprehensive evaluation and county board assessment of the 4780  
person named in the affidavit to be performed. The evaluation 4781  
shall be conducted in the least restrictive environment possible 4782  
and the assessment shall be conducted in the same manner as 4783  
assessments conducted under section 5123.711 of the Revised 4784  
Code. The evaluation and assessment must be completed before a 4785  
probable cause hearing or full hearing may be held under section 4786  
5123.75 or 5123.76 of the Revised Code. 4787

A written report of the evaluation team's findings and the 4788  
county board's assessment shall be filed with the probate court\_ 4789  
or criminal court. The reports shall, consistent with the rules 4790  
of evidence, be accepted as probative evidence in any proceeding 4791  
under section 5123.75 or 5123.76 of the Revised Code. If the 4792  
counsel for the person who is evaluated or assessed is known, 4793  
the court shall send to the counsel a copy of the reports as 4794  
soon as possible after they are filed and prior to any 4795  
proceedings under section 5123.75 or 5123.76 of the Revised 4796  
Code. 4797

(B) Any person who is involuntarily detained in an 4798  
institution or otherwise is in custody under this chapter shall 4799  
be informed of the right to do the following: 4800

(1) Immediately make a reasonable number of telephone 4801  
calls or use other reasonable means to contact an attorney, a 4802  
physician, or both, to contact any other person or persons to 4803  
secure representation by counsel, or to obtain medical 4804  
assistance, and be provided assistance in making calls if the 4805  
assistance is needed and requested; 4806

(2) Retain counsel and have independent expert evaluation 4807  
and, if the person is an indigent person, be represented by 4808  
court-appointed counsel and have independent expert evaluation 4809  
at ~~court~~ the probate court's or criminal court's expense; 4810

(3) Upon request, have a hearing to determine whether 4811  
there is probable cause to believe that the person is a person 4812  
with an intellectual disability subject to institutionalization 4813  
by court order. 4814

(C) No person who is being treated by spiritual means 4815  
through prayer alone in accordance with a recognized religious 4816  
method of healing may be ordered detained or involuntarily 4817  
committed unless the probate court or criminal court has 4818  
determined that the person represents a very substantial risk of 4819  
self-impairment, self-injury, or impairment or injury to others. 4820

**Sec. 5123.73.** (A) After receipt of the affidavit required 4821  
by section 5123.71 of the Revised Code, the probate court or 4822  
criminal court shall cause written notice, by mail or otherwise, 4823  
of any hearing the court directs, to be given to all of the 4824  
following persons: 4825

(1) The respondent; 4826

(2) The respondent's legal guardian, if any;	4827
(3) The respondent's spouse, if address is known;	4828
(4) The person filing the affidavit;	4829
(5) Any one person designated by the respondent, except that if the respondent does not make a selection, the notice shall be sent to the adult next of kin other than the person who filed the affidavit, if that person's address is known to the <u>probate court or criminal court</u> ;	4830 4831 4832 4833 4834
(6) The respondent's counsel;	4835
(7) The director of developmental disabilities or the director's designee under section 5123.72 of the Revised Code.	4836 4837
(B) All persons entitled to notice under this section may waive that notice.	4838 4839
(C) A copy of the affidavit and of any temporary order shall be served with a notice under this section.	4840 4841
<b>Sec. 5123.74.</b> (A) On receipt of an affidavit under section 5123.71 of the Revised Code, the probate <del>division of the court</del> <del>of common pleas or criminal court</del> may, if it has probable cause to believe that the person named in the affidavit is a person with an intellectual disability subject to institutionalization by court order and that emergency institutionalization is required, do any of the following:	4842 4843 4844 4845 4846 4847 4848
(1) Issue a temporary order of detention ordering any health or police officer or sheriff to take into custody and transport such person to an institution or other place as designated in section 5123.77 of the Revised Code;	4849 4850 4851 4852
(2) Order the county board of developmental disabilities	4853

to provide services to the individual in the community if the 4854  
board's assessment of the individual conducted under section 4855  
5123.711 of the Revised Code identifies that resources are 4856  
available to meet the individual's needs in an appropriate 4857  
manner within the community as an alternative to 4858  
institutionalization; 4859

(3) Set the matter for further hearing. 4860

(B) A managing officer of a nonpublic institution may, and 4861  
the managing officer of a public institution shall, receive for 4862  
observation, diagnosis, habilitation, and care any person whose 4863  
admission is ordered pursuant to division (A)(1) of this 4864  
section. 4865

The alternatives to institutionalization that may be 4866  
ordered under division (A)(2) of this section are limited to 4867  
those that are necessary to remediate the emergency condition; 4868  
necessary for the person's health, safety or welfare; and 4869  
necessary for the protection of society, if applicable. 4870

(C) A person detained under this section may be observed 4871  
and habilitated until the probable cause hearing provided for in 4872  
section 5123.75 of the Revised Code. If no probable cause 4873  
hearing is requested or held, the person may be evaluated and 4874  
shall be provided with habilitative services until the full 4875  
hearing is held pursuant to section 5123.76 of the Revised Code. 4876

**Sec. 5123.75.** A respondent who is involuntarily placed in 4877  
an institution or other place as designated in section 5123.77 4878  
of the Revised Code or with respect to whom proceedings have 4879  
been instituted under section 5123.71 of the Revised Code shall, 4880  
on request of the respondent, the respondent's guardian, or the 4881  
respondent's counsel, or upon the probate court's or criminal 4882

court's own motion, be afforded a hearing to determine whether 4883  
there is probable cause to believe that the respondent is a 4884  
person with an intellectual disability subject to 4885  
institutionalization by court order. 4886

(A) The probable cause hearing shall be conducted within 4887  
two court days from the day on which the request is made. 4888  
Failure to conduct the probable cause hearing within this time 4889  
shall effect an immediate discharge of the respondent. If the 4890  
proceedings are not reinstated within thirty days, records of 4891  
the proceedings shall be expunged. 4892

(B) The respondent shall be informed that the respondent 4893  
may retain counsel and have independent expert evaluation and, 4894  
if the respondent is an indigent person, be represented by court 4895  
appointed counsel and have independent expert evaluation at 4896  
~~court~~ the probate court's or criminal court's expense. 4897

(C) The probable cause hearing shall be conducted in a 4898  
manner consistent with the procedures set forth in division (A) 4899  
of section 5123.76 of the Revised Code, except divisions (A) (10) 4900  
and (14) of that section, and the designee of the director of 4901  
developmental disabilities under section 5123.72 of the Revised 4902  
Code shall present evidence for the state. 4903

(D) If the probate court or criminal court does not find 4904  
probable cause to believe that the respondent is a person with 4905  
an intellectual disability subject to institutionalization by 4906  
court order, it shall order immediate release of the respondent 4907  
and dismiss and expunge all record of the proceedings under this 4908  
chapter. 4909

(E) On motion of the respondent or the respondent's 4910  
counsel and for good cause shown, the probate court or criminal 4911

court may order a continuance of the hearing. 4912

(F) If the probate court or criminal court finds probable 4913  
cause to believe that the respondent is a person with an 4914  
intellectual disability subject to institutionalization by court 4915  
order, the court may issue an interim order of placement and, 4916  
where proceedings under section 5123.71 of the Revised Code have 4917  
been instituted, shall order a full hearing as provided in 4918  
section 5123.76 of the Revised Code to be held on the question 4919  
of whether the respondent is a person with an intellectual 4920  
disability subject to institutionalization by court order. 4921  
Unless specifically waived by the respondent or the respondent's 4922  
counsel, the court shall schedule said hearing to be held as 4923  
soon as possible within ten days from the probable cause 4924  
hearing. A waiver of such full hearing at this point shall not 4925  
preclude the respondent from asserting the respondent's right to 4926  
such hearing under section 5123.76 of the Revised Code at any 4927  
time prior to the mandatory hearing provided in division (H) of 4928  
section 5123.76 of the Revised Code. In any case, if the 4929  
respondent has waived the right to the full hearing, a mandatory 4930  
hearing shall be held under division (H) of section 5123.76 of 4931  
the Revised Code between the ninetieth and the one hundredth day 4932  
after the original involuntary detention of the person unless 4933  
the respondent has been discharged. 4934

(G) Whenever possible, the probable cause hearing shall be 4935  
held before the respondent is taken into custody. 4936

**Sec. 5123.76.** (A) The full hearing shall be conducted in a 4937  
manner consistent with the procedures outlined in this chapter 4938  
and with due process of law. The hearing shall be held by a 4939  
judge of the probate ~~division~~ court or, upon transfer by the 4940  
judge of the probate ~~division~~ court, by another judge of the 4941

court of common pleas, a judge of the criminal court, or a 4942  
referee designated by the judge of the probate ~~division~~ court or 4943  
criminal court. Any referee designated by the judge of the 4944  
probate ~~division~~ court or criminal court must be an attorney. 4945

(1) The following shall be made available to counsel for 4946  
the respondent: 4947

(a) All relevant documents, information, and evidence in 4948  
the custody or control of the state or prosecutor; 4949

(b) All relevant documents, information, and evidence in 4950  
the custody or control of the institution, facility, or program 4951  
in which the respondent currently is held or in which the 4952  
respondent has been held pursuant to these proceedings; 4953

(c) With the consent of the respondent, all relevant 4954  
documents, information, and evidence in the custody or control 4955  
of any institution or person other than the state. 4956

(2) The respondent has the right to be represented by 4957  
counsel of the respondent's choice and has the right to attend 4958  
the hearing except if unusual circumstances of compelling 4959  
medical necessity exist that render the respondent unable to 4960  
attend and the respondent has not expressed a desire to attend. 4961

(3) If the respondent is not represented by counsel and 4962  
the probate court or criminal court determines that the 4963  
conditions specified in division (A) (2) of this section justify 4964  
the respondent's absence and the right to counsel has not been 4965  
validly waived, the court shall appoint counsel forthwith to 4966  
represent the respondent at the hearing, reserving the right to 4967  
tax costs of appointed counsel to the respondent unless it is 4968  
shown that the respondent is indigent. If the court appoints 4969  
counsel, or if the court determines that the evidence relevant 4970

to the respondent's absence does not justify the absence, the 4971  
court shall continue the case. 4972

(4) The respondent shall be informed of the right to 4973  
retain counsel, to have independent expert evaluation, and, if 4974  
an indigent person, to be represented by court appointed counsel 4975  
and have expert independent evaluation at ~~court~~ the probate 4976  
court's or criminal court's expense. 4977

(5) The hearing may be closed to the public unless counsel 4978  
for the respondent requests that the hearing be open to the 4979  
public. 4980

(6) Unless objected to by the respondent, the respondent's 4981  
counsel, or the designee of the director of developmental 4982  
disabilities under section 5123.72 of the Revised Code, the 4983  
probate court or criminal court, for good cause shown, may admit 4984  
persons having a legitimate interest in the proceedings. 4985

(7) The affiant under section 5123.71 of the Revised Code 4986  
shall be subject to subpoena by either party. 4987

(8) The probate court or criminal court shall examine the 4988  
sufficiency of all documents filed and shall inform the 4989  
respondent, if present, and the respondent's counsel of the 4990  
nature of the content of the documents and the reason for which 4991  
the respondent is being held or for which the respondent's 4992  
placement is being sought. 4993

(9) The probate court or criminal court shall receive only 4994  
relevant, competent, and material evidence. 4995

(10) In accordance with section 5123.72 of the Revised 4996  
Code, the designee of the director shall present the evidence 4997  
for the state. In proceedings under this chapter, the attorney 4998  
general shall present the comprehensive evaluation, assessment, 4999

diagnosis, prognosis, record of habilitation and care, if any, 5000  
and less restrictive habilitation plans, if any. The attorney 5001  
general does not have a similar presentation responsibility in 5002  
connection with a person who has been found not guilty by reason 5003  
of insanity and who is the subject of a hearing under section 5004  
2945.40 of the Revised Code to determine whether the person is a 5005  
person with an intellectual disability subject to 5006  
institutionalization by court order. 5007

(11) The respondent has the right to testify and the 5008  
respondent or the respondent's counsel has the right to subpoena 5009  
witnesses and documents and to present and cross-examine 5010  
witnesses. 5011

(12) The respondent shall not be compelled to testify and 5012  
shall be so advised by the probate court or criminal court. 5013

(13) On motion of the respondent or the respondent's 5014  
counsel for good cause shown, or upon the probate court's or 5015  
criminal court's own motion, the court may order a continuance 5016  
of the hearing. 5017

(14) To an extent not inconsistent with this chapter, the 5018  
Rules of Civil Procedure shall be applicable. 5019

(B) Unless, upon completion of the hearing, the probate 5020  
court or criminal court finds by clear and convincing evidence 5021  
that the respondent named in the affidavit is a person with an 5022  
intellectual disability subject to institutionalization by court 5023  
order, it shall order the respondent's discharge forthwith. 5024

(C) If, upon completion of the hearing, the probate court 5025  
or criminal court finds by clear and convincing evidence that 5026  
the respondent is a person with an intellectual disability 5027  
subject to institutionalization by court order, the court may 5028

order the respondent's discharge or order the respondent, for a 5029  
period not to exceed ninety days, to any of the following: 5030

(1) A public institution, provided that commitment of the 5031  
respondent to the institution will not cause the institution to 5032  
exceed its licensed capacity determined in accordance with 5033  
section 5123.19 of the Revised Code and provided that such a 5034  
placement is indicated by the comprehensive evaluation report 5035  
filed pursuant to section 5123.71 of the Revised Code; 5036

(2) A private institution; 5037

(3) A program offered by a county board of developmental 5038  
disabilities for persons with intellectual disabilities; 5039

(4) Receive private habilitation and care; 5040

(5) Any other suitable facility, program, or the care of 5041  
any person consistent with the comprehensive evaluation, 5042  
assessment, diagnosis, prognosis, and habilitation needs of the 5043  
respondent. 5044

(D) Any order made pursuant to division (C) (2), (4), or 5045  
(5) of this section shall be conditional upon the receipt by the 5046  
probate court or criminal court of consent by the facility, 5047  
program, or person to accept the respondent. 5048

(E) In determining the place to which, or the person with 5049  
whom, the respondent is to be committed, the probate court or 5050  
criminal court shall consider the comprehensive evaluation, 5051  
assessment, diagnosis, and projected habilitation plan for the 5052  
respondent, and shall order the implementation of the least 5053  
restrictive alternative available and consistent with 5054  
habilitation goals. 5055

(F) If, at any time it is determined by the director of 5056

the facility or program to which, or the person to whom, the  
respondent is committed that the respondent could be equally  
well habilitated in a less restrictive environment that is  
available, the following shall occur:

(1) The respondent shall be released by the director of  
the facility or program or by the person forthwith and referred  
to the probate court or criminal court together with a report of  
the findings and recommendations of the facility, program, or  
person.

(2) The director of the facility or program or the person  
shall notify the respondent's counsel and the designee of the  
director of developmental disabilities.

(3) The probate court or criminal court shall dismiss the  
case or order placement in the less restrictive environment.

(G) (1) Except as provided in divisions (G) (2) and (3) of  
this section, any person who has been committed under this  
section may apply at any time during the ninety-day period for  
voluntary admission to an institution under section 5123.69 of  
the Revised Code. Upon admission of a voluntary resident, the  
managing officer immediately shall notify the probate court or  
criminal court, the respondent's counsel, and the designee of  
the director in writing of that fact by mail or otherwise, and,  
upon receipt of the notice, the court shall dismiss the case.

(2) 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 be voluntarily admitted to an institution  
pursuant to division (G) (1) of this section until after the  
termination of the commitment, as described in division (J) of

section 2945.401 of the Revised Code. 5086

(H) If, at the end of any commitment period, the 5087  
respondent has not already been discharged or has not requested 5088  
voluntary admission status, the director of the facility or 5089  
program, or the person to whose care the respondent has been 5090  
committed, shall discharge the respondent forthwith, unless at 5091  
least ten days before the expiration of that period the designee 5092  
of the director of developmental disabilities or the prosecutor 5093  
files an application with the probate court or criminal court 5094  
requesting continued commitment. 5095

(1) An application for continued commitment shall include 5096  
a written report containing a current comprehensive evaluation 5097  
and assessment, a diagnosis, a prognosis, an account of progress 5098  
and past habilitation, and a description of alternative 5099  
habilitation settings and plans, including a habilitation 5100  
setting that is the least restrictive setting consistent with 5101  
the need for habilitation. A copy of the application shall be 5102  
provided to respondent's counsel. The requirements for notice 5103  
under section 5123.73 of the Revised Code and the provisions of 5104  
divisions (A) to (E) of this section apply to all hearings on 5105  
such applications. 5106

(2) A hearing on the first application for continued 5107  
commitment shall be held at the expiration of the first ninety- 5108  
day period. The hearing shall be mandatory and may not be 5109  
waived. 5110

(3) Subsequent periods of commitment not to exceed one 5111  
hundred eighty days each may be ordered by the probate court or 5112  
criminal court if the designee of the director of developmental 5113  
disabilities files an application for continued commitment, 5114  
after a hearing is held on the application or without a hearing 5115

if no hearing is requested and no hearing required under 5116  
division (H) (4) of this section is waived. Upon the application 5117  
of a person involuntarily committed under this section, 5118  
supported by an affidavit of a licensed physician alleging that 5119  
the person is no longer a person with an intellectual disability 5120  
subject to institutionalization by court order, the court for 5121  
good cause shown may hold a full hearing on the person's 5122  
continued commitment prior to the expiration of any subsequent 5123  
period of commitment set by the court. 5124

(4) A mandatory hearing shall be held at least every two 5125  
years after the initial commitment. 5126

(5) If the probate court or criminal court, after a 5127  
hearing upon a request to continue commitment, finds that the 5128  
respondent is a person with an intellectual disability subject 5129  
to institutionalization by court order, the court may make an 5130  
order pursuant to divisions (C), (D), and (E) of this section. 5131

(I) Notwithstanding the provisions of division (H) of this 5132  
section, no person who is found to be a person with an 5133  
intellectual disability subject to institutionalization by court 5134  
order pursuant to division (O) (2) of section 5123.01 of the 5135  
Revised Code shall be held under involuntary commitment for more 5136  
than five years. 5137

(J) The managing officer admitting a person pursuant to a 5138  
judicial proceeding, within ten working days of the admission, 5139  
shall make a report of the admission to the department. 5140

**Sec. 5123.79.** (A) Notwithstanding a finding pursuant to 5141  
section 5123.76 of the Revised Code that a person is a person 5142  
with an intellectual disability subject to institutionalization 5143  
by court order, the managing officer of an institution, with the 5144

concurrence of the chief program director, shall, except as 5145  
provided in division (C) of this section, grant a discharge 5146  
without the consent or the authorization of any court upon a 5147  
determination that institutionalization no longer is 5148  
appropriate. Upon the discharge, the managing officer of the 5149  
institution shall notify the probate ~~division of the court of~~ 5150  
~~common pleas or criminal court~~ that made the involuntary 5151  
commitment. 5152

(B) Upon the request of the director of a private 5153  
institution, program, facility, or person having custody of a 5154  
resident institutionalized pursuant to section 5123.76 of the 5155  
Revised Code, or on the order of the probate ~~division of the~~ 5156  
~~court of common pleas or criminal court~~, the resident may be 5157  
called for a rehearing to determine the advisability of 5158  
continued institutionalization at a place within the county of 5159  
resident's residence or the county where the resident is 5160  
institutionalized as the probate division designates. The 5161  
hearing shall be held pursuant to section 5123.76 of the Revised 5162  
Code. 5163

**Sec. 5123.81.** When an involuntarily committed resident of 5164  
an institution for persons with intellectual disabilities is 5165  
absent without leave, an order shall be issued within five days 5166  
after the resident's absence requiring the resident to be taken 5167  
into custody by any health or police officer, or sheriff and 5168  
transported to the institution from which the resident is 5169  
absent. The order may be issued by the director of developmental 5170  
disabilities, the managing officer of the institution from which 5171  
the resident is absent, or the ~~probate~~-judge of the probate 5172  
court or the criminal court of the county from which the 5173  
resident was ordered institutionalized or in which ~~he~~-the 5174  
resident is found. The officer who takes the resident into 5175

custody shall immediately notify the issuer of the order. 5176

**Sec. 5123.811.** The managing officer of an institution 5177  
under the control of the department of developmental 5178  
disabilities shall immediately report the removal, death, 5179  
absence without leave, discharge, or trial visit of any 5180  
resident, or return of an absent without leave or visiting 5181  
resident to the department, the ~~probate~~-judge of the probate 5182  
court or the criminal court of the county from which such 5183  
resident was institutionalized, and the ~~probate~~-judge of the 5184  
probate court or the criminal court of the county of the 5185  
residence of such resident. In case of death, the managing 5186  
officer shall also notify one or more of the nearest relatives 5187  
of the deceased resident, if known to the managing officer, by 5188  
letter, telegram, or telephone. If the place of residence of 5189  
such relative is unknown to the managing officer, immediately 5190  
upon receiving notification, the ~~probate~~-judge shall in the 5191  
speediest manner possible notify such relatives, if known to the 5192  
~~probate~~-judge. 5193

The managing officer of the institution shall, upon the 5194  
request of the ~~probate~~-judge of the probate court or the 5195  
criminal court of the county from which such resident was 5196  
institutionalized or the ~~probate~~-judge of the probate court or 5197  
the criminal court of the county of the residence of such 5198  
resident, make a report to such judge of the condition of any 5199  
resident under the care, treatment, custody, or control of such 5200  
managing officer. 5201

**Sec. 5123.86.** (A) Except as provided in divisions (C), 5202  
(D), and (E) of this section, the chief medical officer shall 5203  
provide all information, including expected physical and medical 5204  
consequences, necessary to enable any resident of an institution 5205

for persons with intellectual disabilities to give a fully 5206  
informed, intelligent, and knowing consent if any of the 5207  
following procedures are proposed: 5208

(1) Surgery; 5209

(2) Sterilization; 5210

(3) Experimental procedures. 5211

(B) No resident shall be subjected to sterilization 5212  
without the resident's informed consent. 5213

(C) If a resident is physically or mentally unable to 5214  
receive the information required for surgery or an experimental 5215  
procedure under division (A) of this section, or has been 5216  
adjudicated incompetent, the information may be provided to the 5217  
resident's natural or court-appointed guardian, including an 5218  
agency providing guardianship services under contract with the 5219  
department of developmental disabilities under sections 5123.55 5220  
to 5123.59 of the Revised Code. The guardian may give the 5221  
informed, intelligent, and knowing written consent for surgery 5222  
or the experimental procedure. 5223

If a resident is physically or mentally unable to receive 5224  
the information required for surgery or an experimental 5225  
procedure under division (A) of this section and has no 5226  
guardian, then the information, the recommendation of the chief 5227  
medical officer, and the concurring judgment of a licensed 5228  
physician who is not a full-time employee of the state may be 5229  
provided to the probate court or criminal court in the county in 5230  
which the institution is located. The court may approve the 5231  
surgery or experimental procedure. Before approving the surgery 5232  
or experimental procedure, the court shall notify the Ohio 5233  
protection and advocacy system created by section 5123.60 of the 5234

Revised Code, and shall notify the resident of the resident's 5235  
rights to consult with counsel, to have counsel appointed by the 5236  
court if the resident is indigent, and to contest the 5237  
recommendation of the chief medical officer. 5238

(D) If, in the judgment of two licensed physicians, delay 5239  
in obtaining consent for surgery would create a grave danger to 5240  
the health of a resident, emergency surgery may be performed 5241  
without the consent of the resident if the necessary information 5242  
is provided to the resident's guardian, including an agency 5243  
providing guardianship services under contract with the 5244  
department of developmental disabilities under sections 5123.55 5245  
to 5123.59 of the Revised Code, or to the resident's spouse or 5246  
next of kin to enable that person or agency to give an informed, 5247  
intelligent, and knowing written consent. 5248

If the guardian, spouse, or next of kin cannot be 5249  
contacted through exercise of reasonable diligence, or if the 5250  
guardian, spouse, or next of kin is contacted, but refuses to 5251  
consent, then the emergency surgery may be performed upon the 5252  
written authorization of the chief medical officer and after 5253  
court approval has been obtained. However, if delay in obtaining 5254  
court approval would create a grave danger to the life of the 5255  
resident, the chief medical officer may authorize surgery, in 5256  
writing, without court approval. If the surgery is authorized 5257  
without court approval, the chief medical officer who made the 5258  
authorization and the physician who performed the surgery shall 5259  
each execute an affidavit describing the circumstances 5260  
constituting the emergency and warranting the surgery and the 5261  
circumstances warranting their not obtaining prior court 5262  
approval. The affidavit shall be filed with the probate court or 5263  
criminal court with which the request for prior approval would 5264  
have been filed within five court days after the surgery, and a 5265

copy of the affidavit shall be placed in the resident's file and 5266  
shall be given to the guardian, spouse, or next of kin of the 5267  
resident, to the hospital at which the surgery was performed, 5268  
and to the Ohio protection and advocacy system created by 5269  
section 5123.60 of the Revised Code. 5270

(E) This chapter does not authorize any form of compulsory 5271  
medical or psychiatric treatment of any resident who is being 5272  
treated by spiritual means through prayer alone in accordance 5273  
with a recognized religious method of healing. 5274

**Sec. 5123.89.** (A) As used in this section: 5275

(1) "Family" means a parent, brother, sister, spouse, son, 5276  
daughter, grandparent, aunt, uncle, or cousin. 5277

(2) "Payment" means activities undertaken by a service 5278  
provider or government entity to obtain or provide reimbursement 5279  
for services provided to a person. 5280

(3) "Treatment" means the provision of services to a 5281  
person, including the coordination or management of services 5282  
provided to the person. 5283

(B) All certificates, applications, records, and reports 5284  
made for the purpose of this chapter, other than probate court 5285  
or criminal court journal entries or probate court or criminal 5286  
court docket entries, that directly or indirectly identify a 5287  
resident or former resident of an institution for persons with 5288  
intellectual disabilities or person whose institutionalization 5289  
has been sought under this chapter shall be kept confidential 5290  
and shall not be disclosed by any person except in the following 5291  
situations: 5292

(1) It is the judgment of the probate court or criminal 5293  
court for judicial records, and the managing officer for 5294

institution records, that disclosure is in the best interest of 5295  
the person identified, and that person or that person's guardian 5296  
or, if that person is a minor, that person's parent or guardian 5297  
consents. 5298

(2) Disclosure is provided for in other sections of this 5299  
chapter. 5300

(3) Disclosure is of a record deposited with the Ohio 5301  
history connection pursuant to division (C) of section 5123.31 5302  
of the Revised Code and the disclosure is made to the closest 5303  
living relative of the person identified, on the relative's 5304  
request. 5305

(4) Disclosure is needed for the treatment of a person who 5306  
is a resident or former resident of an institution for persons 5307  
with intellectual disabilities or a person whose 5308  
institutionalization has been sought under this chapter or is 5309  
needed for the payment of services provided to the person. 5310

(5) Disclosure is needed for a guardianship proceeding 5311  
under Chapter 2111. of the Revised Code. 5312

(C) The department of developmental disabilities shall 5313  
adopt rules with respect to the systematic and periodic 5314  
destruction of residents' records. 5315

(D) Upon the death of a resident or former resident of an 5316  
institution for persons with intellectual disabilities or a 5317  
person whose institutionalization was sought under this chapter, 5318  
the managing officer of an institution shall provide access to 5319  
the certificates, applications, records, and reports made for 5320  
the purposes of this chapter to the resident's, former 5321  
resident's, or person's guardian if the guardian makes a written 5322  
request. If a deceased resident, former resident, or person 5323

whose institutionalization was sought under this chapter did not 5324  
have a guardian at the time of death, the managing officer shall 5325  
provide access to the certificates, applications, records, and 5326  
reports made for purposes of this chapter to a member of the 5327  
person's family, upon that family member's written request. 5328

(E) No person shall reveal the contents of a record of a 5329  
resident except as authorized by this chapter. 5330

**Sec. 5123.92.** If an affidavit alleging that a person has 5331  
an intellectual disability and is subject to 5332  
institutionalization by court order is filed, according to the 5333  
provisions of section 5123.71 of the Revised Code, in the 5334  
probate ~~division~~court or criminal court of a county within the 5335  
institutional district but not in the county within which the 5336  
institution is located, and if such person is detained in the 5337  
institution, the probate ~~division~~court or criminal court of the 5338  
county in which the institution is located shall, upon the 5339  
request of the probate division receiving the affidavit, hold a 5340  
hearing and make a disposition of the person in accordance with 5341  
the procedures prescribed by this chapter. 5342

**Sec. 5123.95.** The ~~probate~~probate judge of the probate court or 5343  
the criminal court, upon making an order institutionalizing a 5344  
person under this chapter, shall forthwith transmit copies, 5345  
under the judge's official seal, of court papers in the case, 5346  
including the certificate of the expert witnesses, and of the 5347  
judge's findings in the case to the managing officer of the 5348  
institution for persons with intellectual disabilities. 5349

If not otherwise furnished, the probate judge shall see 5350  
that each person institutionalized under section 5123.76 of the 5351  
Revised Code is properly attired for transportation and, in 5352  
addition, the institution shall be furnished a complete change 5353

of clothing for such person, which shall be paid for on the 5354  
certificate of the probate judge and the order of the county 5355  
auditor from the county treasury. The clothing shall be new or 5356  
as good as new. The managing officer of the institution need not 5357  
receive the person without such clothing. 5358

Upon institutionalization, the managing officer of the 5359  
institution to which the individual is admitted shall take 5360  
possession of all money and other valuables that may be upon the 5361  
person of the individual and shall, within ten days, file a list 5362  
thereof with the probate judge of the county of which the 5363  
individual is a resident. If the amount of money is fifty 5364  
dollars or less it shall be retained and expended by the 5365  
managing officer of the institution for the benefit of the 5366  
individual. Unless a guardian of the estate of the individual 5367  
has already been appointed, the probate judge may, upon the 5368  
judge's own motion and without notice, appoint a special 5369  
guardian of the estate of the individual. Any special guardian, 5370  
before being appointed, shall file a bond approved by the 5371  
probate judge in the same amount as is required by section 5372  
2109.04 of the Revised Code. A special guardian as provided for 5373  
in this section, and while acting as such, shall be governed by 5374  
all laws applicable to guardians of the estates of incompetents. 5375  
The special guardian shall be allowed such compensation for the 5376  
special guardian's services as the probate court or criminal 5377  
court thinks reasonable, providing the special guardian 5378  
forthwith performs all the duties incumbent upon the special 5379  
guardian. 5380

**Sec. 5123.96.** Costs, fees, and expenses of all proceedings 5381  
held under this chapter shall be paid as follows: 5382

(A) To police and health officers, other than sheriffs or 5383

their deputies, the same fees allowed to constables, to be paid 5384  
upon the approval of the ~~probate~~ judge of the probate court or 5385  
the criminal court; 5386

(B) To sheriffs or their deputies, the same fees allowed 5387  
for similar services in the court of common pleas, county court, 5388  
or municipal court; 5389

(C) To physicians or licensed clinical psychologists 5390  
acting as expert witnesses and to other expert witnesses 5391  
designated by the court, an amount determined by the probate 5392  
court or criminal court; 5393

(D) To witnesses in an administrative proceeding, the same 5394  
fees and mileage as are provided to witnesses by section 119.094 5395  
of the Revised Code, and to witnesses in a judicial proceeding, 5396  
the same fees and mileage as are provided to witnesses by 5397  
section 2335.06 of the Revised Code, to be paid upon the 5398  
approval of the ~~probate~~ judge of a probate court or a criminal 5399  
court; 5400

(E) To a person, other than the sheriff or the sheriff's 5401  
deputies, for taking a person with an intellectual disability to 5402  
an institution or removing a person with an intellectual 5403  
disability from an institution, the actual necessary expenses 5404  
incurred, specifically itemized, and approved by the ~~probate~~ 5405  
judge of a probate court or a criminal court; 5406

(F) To assistants who convey persons with intellectual 5407  
disabilities to institutions when authorized by the ~~probate~~ 5408  
judge of the probate court or the criminal court, a fee set by 5409  
the probate court, provided the assistants are not drawing a 5410  
salary from the state or any political subdivision of the state, 5411  
and their actual necessary expenses incurred, provided that the 5412

expenses are specifically itemized and approved by the ~~probate~~ 5413  
judge of the probate court or the criminal court; 5414

(G) To an attorney appointed by the probate ~~division~~ court 5415  
or criminal court for an indigent who allegedly is a person with 5416  
an intellectual disability pursuant to any section of this 5417  
chapter, the fees that are determined by the probate ~~division~~ 5418  
court or criminal court. When those indigent persons are before 5419  
the court, all filing and recording fees shall be waived. 5420

(H) To a referee who is appointed to conduct proceedings 5421  
under this chapter that involve a respondent whose domicile is 5422  
or, before the respondent's institutionalization, was not the 5423  
county in which the proceedings are held, compensation as fixed 5424  
by the probate ~~division~~ court or criminal court, but not more 5425  
than the compensation paid for similar proceedings for 5426  
respondents whose domicile is in the county in which the 5427  
proceedings are held; 5428

(I) To a court reporter appointed to make a transcript of 5429  
proceedings under this chapter, the compensation and fees 5430  
allowed in other cases under section 2101.08 of the Revised 5431  
Code. 5432

All costs, fees, and expenses described in this section, 5433  
after payment by the county from appropriations pursuant to 5434  
section 2101.11 of the Revised Code, shall be certified by the 5435  
county auditor to the department of developmental disabilities 5436  
within two months of the date the costs, fees, and expenses are 5437  
incurred by the county. Payment shall be provided for by the 5438  
director of budget and management upon presentation of properly 5439  
verified vouchers. The director of developmental disabilities 5440  
may adopt rules in accordance with Chapter 119. of the Revised 5441  
Code to implement the payment of costs, fees, and expenses under 5442

this section. 5443

**Sec. 5123.97.** In cases of proceedings held under this 5444  
chapter, the ~~probate~~ judge of a probate court or a criminal 5445  
court shall file and preserve all papers filed with ~~him~~the judge 5446  
and make such entries upon histhe judge's docket as, together 5447  
with the papers so filed, will constitute a complete record of 5448  
each case determined by himthe judge. 5449

**Section 2.** That existing sections 149.43, 2101.24, 5450  
2108.90, 2945.38, 2945.39, 2945.401, 5122.01, 5122.02, 5122.03, 5451  
5122.05, 5122.09, 5122.10, 5122.11, 5122.111, 5122.112, 5122.12, 5452  
5122.13, 5122.14, 5122.141, 5122.15, 5122.20, 5122.23, 5122.25, 5453  
5122.26, 5122.27, 5122.271, 5122.29, 5122.31, 5122.311, 5122.35, 5454  
5122.36, 5122.38, 5122.41, 5122.43, 5123.01, 5123.21, 5123.39, 5455  
5123.57, 5123.58, 5123.61, 5123.70, 5123.71, 5123.73, 5123.74, 5456  
5123.75, 5123.76, 5123.79, 5123.81, 5123.811, 5123.86, 5123.89, 5457  
5123.92, 5123.95, 5123.96, and 5123.97 of the Revised Code are 5458  
hereby repealed. 5459

**Section 3.** The General Assembly, applying the principle 5460  
stated in division (B) of section 1.52 of the Revised Code that 5461  
amendments are to be harmonized if reasonably capable of 5462  
simultaneous operation, finds that the following sections, 5463  
presented in this act as composites of the sections as amended 5464  
by the acts indicated, are the resulting versions of the 5465  
sections in effect prior to the effective date of the sections 5466  
as presented in this act: 5467

Section 5122.11 of the Revised Code is presented in this 5468  
act as amended by both H.B. 281 and S.B. 2 of the 134th General 5469  
Assembly. 5470

Section 5122.111 of the Revised Code is presented in this 5471

act as amended by both H.B. 281 and S.B. 2 of the 134th General  
Assembly.

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