

**As Reported by the House Judiciary Committee**

**136th General Assembly**

**Regular Session**

**2025-2026**

**Am. S. B. No. 295**

**Senators Manning, Patton**

**Cosponsors: Senators Cirino, Gavarone, Reineke, Romanchuk, Schaffer, Smith**

**Representative Mathews, A.**

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To amend sections 2945.38, 2945.39, and 2945.401 of  
the Revised Code relative to the timeline for  
restoration of competency in criminal cases and  
to declare an emergency.

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

**Section 1.** That sections 2945.38, 2945.39, and 2945.401 of  
the Revised Code be amended to read as follows:

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

(B) (1) (a) (i) If the defendant has been charged with a 19  
felony offense or a misdemeanor offense of violence for which 20  
the prosecutor has not recommended the procedures under division 21  
(B) (1) (a) (vi) of this section and if, after taking into 22  
consideration all relevant reports, information, and other 23  
evidence, the court finds that the defendant is incompetent to 24  
stand trial and that there is a substantial probability that the 25  
defendant will become competent to stand trial within ~~one year~~ 26  
the time specified in division (C) of this section if the 27  
defendant is provided with a course of treatment, the court 28  
shall order the defendant to undergo treatment. 29

(ii) If the defendant has been charged with a felony 30  
offense and if, after taking into consideration all relevant 31  
reports, information, and other evidence, the court finds that 32  
the defendant is incompetent to stand trial, but the court is 33  
unable at that time to determine whether there is a substantial 34  
probability that the defendant will become competent to stand 35  
trial within ~~one year~~ the time specified in division (C) of this 36  
section if the defendant is provided with a course of treatment, 37  
the court shall order continuing evaluation and treatment of the 38  
defendant for a period not to exceed four months to determine 39  
whether there is a substantial probability that the defendant 40  
will become competent to stand trial within ~~one year~~ the time 41  
specified in division (C) of this section if the defendant is 42  
provided with a course of treatment. 43

(iii) If the defendant has not been charged with a felony 44  
offense but has been charged with a misdemeanor offense of 45  
violence and if, after taking into consideration all relevant 46  
reports, information, and other evidence, the court finds that 47  
the defendant is incompetent to stand trial, but the court is 48  
unable at that time to determine whether there is a substantial 49

probability that the defendant will become competent to stand trial within the time frame permitted under division ~~(C) (1)~~ (C) (4) or (5) of this section, the court may order continuing evaluation and treatment of the defendant for a period not to exceed the maximum period permitted under that division.

(iv) If the defendant has not been charged with a felony offense or a misdemeanor offense of violence, but has been charged with a misdemeanor offense that is not a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within the time frame permitted under division ~~(C) (1)~~ (C) (4) or (5) of this section, the court shall dismiss the charges and follow the process outlined in division (B) (1) (a) (v) (I) of this section.

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

(I) Dismiss the charges pending against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. Upon dismissal of the charges, the trial court shall discharge the defendant unless

the court or prosecutor, after consideration of the requirements 80  
of section 5122.11 of the Revised Code, files an affidavit in 81  
probate court alleging that the defendant is a mentally ill 82  
person subject to court order or a person with an intellectual 83  
disability subject to institutionalization by court order. If an 84  
affidavit is filed in probate court, the trial court may detain 85  
the defendant for ten days pending a hearing in the probate 86  
court and shall send to the probate court copies of all written 87  
reports of the defendant's mental condition that were prepared 88  
pursuant to section 2945.371 of the Revised Code. The trial 89  
court or prosecutor shall specify in the appropriate space on 90  
the affidavit that the defendant is a person described in this 91  
subdivision. 92

(II) Order the defendant to undergo outpatient competency 93  
restoration treatment at a facility operated or certified by the 94  
department of mental health and addiction services as being 95  
qualified to treat mental illness, at a public or community 96  
mental health facility, at a jail that employs or contracts with 97  
an individual or entity listed in division (B) (1) (b) (i) of this 98  
section to provide treatment or continuing evaluation and 99  
treatment at a jail, or in the care of a psychiatrist or other 100  
mental health professional. If a defendant who has been released 101  
on bail or recognizance refuses to comply with court-ordered 102  
outpatient treatment under this division, the court may dismiss 103  
the charges pending against the defendant and proceed under 104  
division (B) (1) (a) (v) (I) of this section or may amend the 105  
conditions of bail or recognizance and order the sheriff to take 106  
the defendant into custody and deliver the defendant to a center 107  
or facility operated or certified by the department of mental 108  
health and addiction services for treatment. 109

(vi) If the defendant has not been charged with a felony 110

offense but has been charged with a misdemeanor offense of 111  
violence and after taking into consideration all relevant 112  
reports, information, and other evidence, the court finds that 113  
the defendant is incompetent to stand trial, the prosecutor in 114  
the case may recommend that the court follow the procedures 115  
prescribed in division (B) (1) (a) (v) of this section. If the 116  
prosecutor does not make such a recommendation, the court shall 117  
follow the procedures in division (B) (1) (a) (i) of this section. 118

(b) (i) The court order for the defendant to undergo 119  
treatment or continuing evaluation and treatment under division 120  
(B) (1) (a) of this section shall specify that the defendant, if 121  
determined to require mental health treatment or continuing 122  
evaluation and treatment, shall be committed to one of the 123  
following: 124

(I) The department of mental health and addiction services 125  
for treatment or continuing evaluation and treatment at a 126  
hospital, facility, or agency, as determined to be clinically 127  
appropriate by the department; 128

(II) A facility certified by the department of mental 129  
health and addiction services as being qualified to treat mental 130  
illness; 131

(III) A public or community mental health facility; 132

(IV) A jail that employs or contracts with an entity or 133  
individual listed in division (B) (1) (b) (i) of this section to 134  
provide treatment or continuing evaluation and treatment at a 135  
jail; 136

(V) A psychiatrist or another mental health professional 137  
for treatment or continuing evaluation and treatment. 138

(ii) Prior to placing the defendant, the department of 139

mental health and addiction services shall obtain court approval 140  
for that placement following a hearing. The court order for the 141  
defendant to undergo treatment or continuing evaluation and 142  
treatment under division (B)(1)(a) of this section shall specify 143  
that the defendant, if determined to require treatment or 144  
continuing evaluation and treatment for an intellectual 145  
disability, shall receive treatment or continuing evaluation and 146  
treatment at an institution or facility operated by the 147  
department of developmental disabilities, at a facility 148  
certified by the department of developmental disabilities as 149  
being qualified to treat intellectual disabilities, at a public 150  
or private intellectual disabilities facility, or by a 151  
psychiatrist or another intellectual disabilities professional. 152  
In any case, the order may restrict the defendant's freedom of 153  
movement as the court considers necessary. The prosecutor in the 154  
defendant's case shall send to the chief clinical officer of the 155  
hospital, facility, or agency where the defendant is placed by 156  
the department of mental health and addiction services, or to 157  
the managing officer or director of the institution, facility, 158  
or jail, or the person to which the defendant is committed, 159  
copies of relevant police reports and other background 160  
information that pertains to the defendant and is available to 161  
the prosecutor unless the prosecutor determines that the release 162  
of any of the information in the police reports or any of the 163  
other background information to unauthorized persons would 164  
interfere with the effective prosecution of any person or would 165  
create a substantial risk of harm to any person. 166

(iii) In determining the place of commitment, the court 167  
shall consider the extent to which the person is a danger to the 168  
person and to others, the need for security, the availability of 169  
housing and supportive services, including outpatient mental 170

health services in the community, and the type of crime involved 171  
and shall order the least restrictive alternative available that 172  
is consistent with public safety and treatment goals. In 173  
weighing these factors, the court shall give preference to 174  
protecting public safety and the availability of housing and 175  
supportive services. 176

(c) If the defendant is found incompetent to stand trial, 177  
if the chief clinical officer of the hospital, facility, or 178  
agency where the defendant is placed, or the managing officer or 179  
director of the institution, facility, or jail, or the person to 180  
which the defendant is committed for treatment or continuing 181  
evaluation and treatment under division (B)(1)(b) of this 182  
section determines that medication is necessary to restore the 183  
defendant's competency to stand trial, and if the defendant 184  
lacks the capacity to give informed consent or refuses 185  
medication, the chief clinical officer of the hospital, 186  
facility, or agency where the defendant is placed, or the 187  
managing officer or director of the institution, facility, or 188  
jail, or the person to which the defendant is committed for 189  
treatment or continuing evaluation and treatment may petition 190  
the court for authorization for the involuntary administration 191  
of medication. The court shall hold a hearing on the petition 192  
within five days of the filing of the petition if the petition 193  
was filed in a municipal court or a county court regarding an 194  
incompetent defendant charged with a misdemeanor or within ten 195  
days of the filing of the petition if the petition was filed in 196  
a court of common pleas regarding an incompetent defendant 197  
charged with a felony offense. Following the hearing, the court 198  
may authorize the involuntary administration of medication or 199  
may dismiss the petition. 200

(2) If the court finds that the defendant is incompetent 201

to stand trial and that, even if the defendant is provided with 202  
a course of treatment, there is not a substantial probability 203  
that the defendant will become competent to stand trial within 204  
~~one year~~the time specified in division (C) of this section, the 205  
court shall order the discharge of the defendant, unless upon 206  
motion of the prosecutor or on its own motion, the court either 207  
seeks to retain jurisdiction over the defendant pursuant to 208  
section 2945.39 of the Revised Code or files an affidavit in the 209  
probate court for the civil commitment of the defendant pursuant 210  
to Chapter 5122. or 5123. of the Revised Code alleging that the 211  
defendant is a person with a mental illness subject to court 212  
order or a person with an intellectual disability subject to 213  
institutionalization by court order. If an affidavit is filed in 214  
the probate court, the trial court shall send to the probate 215  
court copies of all written reports of the defendant's mental 216  
condition that were prepared pursuant to section 2945.371 of the 217  
Revised Code. 218

The trial court may issue the temporary order of detention 219  
that a probate court may issue under section 5122.11 or 5123.71 220  
of the Revised Code, to remain in effect until the probable 221  
cause or initial hearing in the probate court. Further 222  
proceedings in the probate court are civil proceedings governed 223  
by Chapter 5122. or 5123. of the Revised Code. 224

(C) No defendant shall be required to undergo treatment, 225  
including any continuing evaluation and treatment, under 226  
division (B) (1) of this section for longer than whichever of the 227  
following periods is applicable: 228

(1) ~~One year~~Three years, if the most serious offense with 229  
which the defendant is charged is one of the following offenses: 230

(a) Aggravated murder, or murder, ~~or an~~; 231

<u>(b) An offense of violence for which a sentence of death</u>	232
or life imprisonment may be imposed;	233
<u>(c) Complicity in committing an offense described in</u>	234
<u>division (C) (1) (a) or (C) (1) (b) of this section.</u>	235
<del>(b)</del> <u>(2) One year, if the most serious offense with which</u>	236
<u>the defendant is charged is one of the following offenses:</u>	237
<u>(a) An offense of violence that is a felony of the first</u>	238
or second degree;	239
<del>(e)</del> <u>(b) A conspiracy to commit, or an attempt to commit, or</u>	240
<del>complicity in the commission of</del> an offense described in division	241
<del>(C) (1) (a)</del> <u>(C) (1) or (b) (2) of this section if the conspiracy, or</u>	242
<del>attempt, or complicity</del> is a felony of the first or second	243
degree;	244
<u>(c) Complicity in committing an offense described in</u>	245
<u>division (C) (2) of this section if the complicity is a felony of</u>	246
<u>the first or second degree.</u>	247
<del>(2)</del> <u>(3) Six months, if the most serious offense with which</u>	248
the defendant is charged is a felony other than a felony	249
described in division (C) (1) <u>or (2) of this section;</u>	250
<del>(3)</del> <u>(4) Sixty days, if the most serious offense with which</u>	251
the defendant is charged is a misdemeanor of the first or second	252
degree;	253
<del>(4)</del> <u>(5) Thirty days, if the most serious offense with which</u>	254
the defendant is charged is a misdemeanor of the third or fourth	255
degree, a minor misdemeanor, or an unclassified misdemeanor.	256
(D) Any defendant who is committed pursuant to this	257
section shall not voluntarily admit the defendant or be	258
voluntarily admitted to a hospital or institution pursuant to	259

section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.	260 261
(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health and addiction services or is committed to an institution or facility for the treatment of intellectual disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the defendant is placed by the department of mental health and addiction services or the institution, facility, or jail to which the defendant is committed. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health and addiction services or the managing officer or director of the institution, facility, or jail to which the defendant is committed, or a designee of any of those persons, may grant a defendant movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the defendant, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health and addiction services or the managing officer or director of the institution, facility, or jail to which the defendant is committed shall	262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290

notify the court within twenty-four hours of the defendant's 291  
movement to the medical facility for an emergency medical 292  
situation under this division. 293

(F) The person who supervises the treatment or continuing 294  
evaluation and treatment of a defendant ordered to undergo 295  
treatment or continuing evaluation and treatment under division 296  
(B) (1) (a) of this section shall file a written report with the 297  
court at the following times: 298

(1) Whenever the person believes the defendant is capable 299  
of understanding the nature and objective of the proceedings 300  
against the defendant and of assisting in the defendant's 301  
defense; 302

(2) For a felony offense, fourteen days before expiration 303  
of the maximum time for treatment as specified in division (C) 304  
of this section and fourteen days before the expiration of the 305  
maximum time for continuing evaluation and treatment as 306  
specified in division (B) (1) (a) of this section, and, for a 307  
misdemeanor offense, ten days before the expiration of the 308  
maximum time for treatment, as specified in division (C) of this 309  
section; 310

(3) At a minimum, after each six months of treatment; 311

(4) Whenever the person who supervises the treatment or 312  
continuing evaluation and treatment of a defendant ordered under 313  
division (B) (1) (a) of this section believes that there is not a 314  
substantial probability that the defendant will become capable 315  
of understanding the nature and objective of the proceedings 316  
against the defendant or of assisting in the defendant's defense 317  
even if the defendant is provided with a course of treatment. 318

(G) A report under division (F) of this section shall 319

contain the examiner's findings, the facts in reasonable detail 320  
on which the findings are based, and the examiner's opinion as 321  
to the defendant's capability of understanding the nature and 322  
objective of the proceedings against the defendant and of 323  
assisting in the defendant's defense. If, in the examiner's 324  
opinion, the defendant remains incapable of understanding the 325  
nature and objective of the proceedings against the defendant 326  
and of assisting in the defendant's defense and there is a 327  
substantial probability that the defendant will become capable 328  
of understanding the nature and objective of the proceedings 329  
against the defendant and of assisting in the defendant's 330  
defense if the defendant is provided with a course of treatment, 331  
if in the examiner's opinion the defendant continues to have a 332  
mental illness or an intellectual disability, and if the maximum 333  
time for treatment as specified in division (C) of this section 334  
has not expired, the report also shall contain the examiner's 335  
recommendation as to the least restrictive placement or 336  
commitment alternative that is consistent with the defendant's 337  
treatment needs for restoration to competency and with the 338  
safety of the community. The court shall provide copies of the 339  
report to the prosecutor and defense counsel. 340

(H) If a defendant is committed pursuant to division (B) 341  
(1) of this section, within ten days after the treating 342  
physician of the defendant or the examiner of the defendant who 343  
is employed or retained by the treating facility advises that 344  
there is not a substantial probability that the defendant will 345  
become capable of understanding the nature and objective of the 346  
proceedings against the defendant or of assisting in the 347  
defendant's defense even if the defendant is provided with a 348  
course of treatment, within ten days after the expiration of the 349  
maximum time for treatment as specified in division (C) of this 350

section, within ten days after the expiration of the maximum 351  
time for continuing evaluation and treatment as specified in 352  
division (B) (1) (a) of this section, within thirty days after a 353  
defendant's request for a hearing that is made after six months 354  
of treatment, or within thirty days after being advised by the 355  
treating physician or examiner that the defendant is competent 356  
to stand trial, whichever is the earliest, the court shall 357  
conduct another hearing to determine if the defendant is 358  
competent to stand trial and shall do whichever of the following 359  
is applicable: 360

(1) If the court finds that the defendant is competent to 361  
stand trial, the defendant shall be proceeded against as 362  
provided by law. 363

(2) If the court finds that the defendant is incompetent 364  
to stand trial, but that there is a substantial probability that 365  
the defendant will become competent to stand trial if the 366  
defendant is provided with a course of treatment, and the 367  
maximum time for treatment as specified in division (C) of this 368  
section has not expired, the court, after consideration of the 369  
examiner's recommendation, shall order that treatment be 370  
continued, may change the facility or location at which the 371  
treatment is to be continued, and shall specify whether the 372  
treatment is to be continued at the same or a different facility 373  
or location. 374

(3) If the court finds that the defendant is incompetent 375  
to stand trial, if the defendant is charged with an offense 376  
listed in division (C) (1) or (2) of this section, and if the 377  
court finds that there is not a substantial probability that the 378  
defendant will become competent to stand trial even if the 379  
defendant is provided with a course of treatment, or if the 380

maximum time for treatment relative to that offense as specified 381  
in division (C) of this section has expired, further proceedings 382  
shall be as provided in sections 2945.39, 2945.401, and 2945.402 383  
of the Revised Code. 384

(4) If the court finds that the defendant is incompetent 385  
to stand trial, if the most serious offense with which the 386  
defendant is charged is a misdemeanor or a felony other than a 387  
felony listed in division (C) (1) or (2) of this section, and if 388  
the court finds that there is not a substantial probability that 389  
the defendant will become competent to stand trial even if the 390  
defendant is provided with a course of treatment, or if the 391  
maximum time for treatment relative to that offense as specified 392  
in division (C) of this section has expired, the court shall 393  
dismiss the indictment, information, or complaint against the 394  
defendant. A dismissal under this division is not a bar to 395  
further prosecution based on the same conduct. The court shall 396  
discharge the defendant unless the court or prosecutor files an 397  
affidavit in probate court for civil commitment pursuant to 398  
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 399  
civil commitment is filed, the court may detain the defendant 400  
for ten days pending civil commitment and shall send to the 401  
probate court copies of all written reports of the defendant's 402  
mental condition prepared pursuant to section 2945.371 of the 403  
Revised Code. 404

All of the following provisions apply to persons charged 405  
with a misdemeanor or a felony other than a felony listed in 406  
division (C) (1) or (2) of this section who are committed by the 407  
probate court subsequent to the court's or prosecutor's filing 408  
of an affidavit for civil commitment under authority of this 409  
division: 410

(a) The chief clinical officer of the entity, hospital, or 411  
facility, the managing officer or director of the institution, 412  
facility, or jail, or the person to which the defendant is 413  
committed or admitted shall do all of the following: 414

(i) Notify the prosecutor, in writing, of the discharge of 415  
the defendant, send the notice at least ten days prior to the 416  
discharge unless the discharge is by the probate court, and 417  
state in the notice the date on which the defendant will be 418  
discharged; 419

(ii) Notify the prosecutor, in writing, when the defendant 420  
is absent without leave or is granted unsupervised, off-grounds 421  
movement, and send this notice promptly after the discovery of 422  
the absence without leave or prior to the granting of the 423  
unsupervised, off-grounds movement, whichever is applicable; 424

(iii) Notify the prosecutor, in writing, of the change of 425  
the defendant's commitment or admission to voluntary status, 426  
send the notice promptly upon learning of the change to 427  
voluntary status, and state in the notice the date on which the 428  
defendant was committed or admitted on a voluntary status. 429

(b) Upon receiving notice that the defendant will be 430  
granted unsupervised, off-grounds movement, the prosecutor 431  
either shall re-indict the defendant or promptly notify the 432  
court that the prosecutor does not intend to prosecute the 433  
charges against the defendant. 434

(I) If a defendant is convicted of a crime and sentenced 435  
to a jail, the defendant's sentence shall be reduced by the 436  
total number of days the defendant is confined for evaluation to 437  
determine the defendant's competence to stand trial or treatment 438  
under this section and sections 2945.37 and 2945.371 of the 439

Revised Code or by the total number of days the defendant is 440  
confined for evaluation to determine the defendant's mental 441  
condition at the time of the offense charged. 442

(J) If a defendant is found incompetent to stand trial and 443  
the treating facility or responsible clinician determines that 444  
the defendant lacks capacity to consent to treatment or refuses 445  
treatment, including medication, and no petition is filed under 446  
division (B) (1) (c) of this section, the time period for 447  
treatment specified in division (C) of this section shall be 448  
tolled during any period of time the defendant lacks capacity to 449  
consent to treatment or refuses treatment, including medication. 450

(K) If a defendant is found incompetent to stand trial and 451  
the treating facility or responsible clinician determines that 452  
the defendant lacks capacity to consent to treatment or refuses 453  
treatment, including medication, and a petition is filed under 454  
division (B) (1) (c) of this section, the time period for 455  
treatment specified in division (C) of this section shall be 456  
tolled during any period of time the petition is pending. 457

(L) For purposes of this section, the chief clinical 458  
officer of the hospital, facility, or agency where the defendant 459  
is placed, or the managing officer or director of the 460  
institution, facility, or jail, or the person to which the 461  
defendant is committed for treatment, shall document the 462  
determination that the defendant lacks capacity to consent to 463  
treatment or refuses treatment, including medication, and shall 464  
notify the court within fourteen days of that determination. 465

(M) If a defendant who has been found incompetent to stand 466  
trial is subsequently found competent during the course of 467  
treatment or continuing evaluation and treatment and is later 468  
again found incompetent to stand trial, the time period for 469

treatment specified in division (C) of this section resets, and 470  
the court shall treat the new period of incompetency as a 471  
distinct restoration period subject to the limitations in 472  
division (C) of this section. 473

(N) The amendments to this section by this act apply 474  
retroactively to all defendants who were found incompetent to 475  
stand trial prior to the effective date of this amendment and 476  
whose restoration to competency is ongoing or whose case remains 477  
pending. 478

**Sec. 2945.39.** (A) If a defendant who is charged with an 479  
offense described in division (C) (1) or (2) of section 2945.38 480  
of the Revised Code is found incompetent to stand trial, after 481  
the expiration of the maximum time for treatment as specified in 482  
division (C) of that section or after the court finds that there 483  
is not a substantial probability that the defendant will become 484  
competent to stand trial even if the defendant is provided with 485  
a course of treatment, one of the following applies: 486

(1) The court or the prosecutor may file an affidavit in 487  
probate court for civil commitment of the defendant in the 488  
manner provided in Chapter 5122. or 5123. of the Revised Code. 489  
If the court or prosecutor files an affidavit for civil 490  
commitment, the court may detain the defendant for ten days 491  
pending civil commitment. If the probate court commits the 492  
defendant subsequent to the court's or prosecutor's filing of an 493  
affidavit for civil commitment, the chief clinical officer of 494  
the entity, hospital, or facility, the managing officer of the 495  
institution, the director of the program, or the person to which 496  
the defendant is committed or admitted shall send to the 497  
prosecutor the notices described in divisions (H) (4) (a) (i) to 498  
(iii) of section 2945.38 of the Revised Code within the periods 499

of time and under the circumstances specified in those 500  
divisions. 501

(2) On the motion of the prosecutor or on its own motion, 502  
the court may retain jurisdiction over the defendant if, at a 503  
hearing, the court finds both of the following by clear and 504  
convincing evidence: 505

(a) The defendant committed the offense with which the 506  
defendant is charged. 507

(b) The defendant is a person with a mental illness 508  
subject to court order or a person with an intellectual 509  
disability subject to institutionalization by court order. 510

(B) In making its determination under division (A) (2) of 511  
this section as to whether to retain jurisdiction over the 512  
defendant, the court may consider all relevant evidence, 513  
including, but not limited to, any relevant psychiatric, 514  
psychological, or medical testimony or reports, the acts 515  
constituting the offense charged, and any history of the 516  
defendant that is relevant to the defendant's ability to conform 517  
to the law. 518

(C) If the court conducts a hearing as described in 519  
division (A) (2) of this section and if the court does not make 520  
both findings described in divisions (A) (2) (a) and (b) of this 521  
section by clear and convincing evidence, the court shall 522  
dismiss the indictment, information, or complaint against the 523  
defendant. Upon the dismissal, the court shall discharge the 524  
defendant unless the court or prosecutor files an affidavit in 525  
probate court for civil commitment of the defendant pursuant to 526  
Chapter 5122. or 5123. of the Revised Code. If the court or 527  
prosecutor files an affidavit for civil commitment, the court 528

may order that the defendant be detained for up to ten days 529  
pending the civil commitment. If the probate court commits the 530  
defendant subsequent to the court's or prosecutor's filing of an 531  
affidavit for civil commitment, the chief clinical officer of 532  
the entity, hospital, or facility, the managing officer of the 533  
institution, the director of the program, or the person to which 534  
the defendant is committed or admitted shall send to the 535  
prosecutor the notices described in divisions (H) (4) (a) (i) to 536  
(iii) of section 2945.38 of the Revised Code within the periods 537  
of time and under the circumstances specified in those 538  
divisions. A dismissal of charges under this division is not a 539  
bar to further criminal proceedings based on the same conduct. 540

(D) (1) If the court conducts a hearing as described in 541  
division (A) (2) of this section and if the court makes the 542  
findings described in divisions (A) (2) (a) and (b) of this 543  
section by clear and convincing evidence, the court shall commit 544  
the defendant, if determined to require mental health treatment, 545  
either to the department of mental health and addiction services 546  
for treatment at a hospital, facility, or agency as determined 547  
clinically appropriate by the department of mental health and 548  
addiction services or to another medical or psychiatric 549  
facility, as appropriate. Prior to placing the defendant, the 550  
department of mental health and addiction services shall obtain 551  
court approval for that placement. If the court conducts such a 552  
hearing and if it makes those findings by clear and convincing 553  
evidence, the court shall commit the defendant, if determined to 554  
require treatment for an intellectual disability, to a facility 555  
operated by the department of developmental disabilities, or 556  
another facility, as appropriate. In determining the place of 557  
commitment, the court shall consider the extent to which the 558  
person is a danger to the person and to others, the need for 559

security, and the type of crime involved and shall order the 560  
least restrictive alternative available that is consistent with 561  
public safety and the welfare of the defendant. In weighing 562  
these factors, the court shall give preference to protecting 563  
public safety. 564

(2) If a court makes a commitment of a defendant under 565  
division (D)(1) of this section, the prosecutor shall send to 566  
the hospital, facility, or agency where the defendant is placed 567  
by the department of mental health and addiction services or to 568  
the defendant's place of commitment all reports of the 569  
defendant's current mental condition and, except as otherwise 570  
provided in this division, any other relevant information, 571  
including, but not limited to, a transcript of the hearing held 572  
pursuant to division (A)(2) of this section, copies of relevant 573  
police reports, and copies of any prior arrest and conviction 574  
records that pertain to the defendant and that the prosecutor 575  
possesses. The prosecutor shall send the reports of the 576  
defendant's current mental condition in every case of 577  
commitment, and, unless the prosecutor determines that the 578  
release of any of the other relevant information to unauthorized 579  
persons would interfere with the effective prosecution of any 580  
person or would create a substantial risk of harm to any person, 581  
the prosecutor also shall send the other relevant information. 582  
Upon admission of a defendant committed under division (D)(1) of 583  
this section, the place of commitment shall send to the board of 584  
alcohol, drug addiction, and mental health services or the 585  
community mental health board serving the county in which the 586  
charges against the defendant were filed a copy of all reports 587  
of the defendant's current mental condition and a copy of the 588  
other relevant information provided by the prosecutor under this 589  
division, including, if provided, a transcript of the hearing 590

held pursuant to division (A) (2) of this section, the relevant 591  
police reports, and the prior arrest and conviction records that 592  
pertain to the defendant and that the prosecutor possesses. 593

(3) If a court makes a commitment under division (D) (1) of 594  
this section, all further proceedings shall be in accordance 595  
with sections 2945.401 and 2945.402 of the Revised Code. 596

**Sec. 2945.401.** (A) A defendant found incompetent to stand 597  
trial and committed pursuant to section 2945.39 of the Revised 598  
Code or a person found not guilty by reason of insanity and 599  
committed pursuant to section 2945.40 of the Revised Code shall 600  
remain subject to the jurisdiction of the trial court pursuant 601  
to that commitment, and to the provisions of this section, until 602  
the final termination of the commitment as described in division 603  
(J) (1) of this section. If the jurisdiction is terminated under 604  
this division because of the final termination of the commitment 605  
resulting from the expiration of the maximum prison term or term 606  
of imprisonment described in division (J) (1) (b) of this section, 607  
the court or prosecutor may file an affidavit for the civil 608  
commitment of the defendant or person pursuant to Chapter 5122. 609  
or 5123. of the Revised Code. 610

(B) A hearing conducted under any provision of sections 611  
2945.37 to 2945.402 of the Revised Code shall not be conducted 612  
in accordance with Chapters 5122. and 5123. of the Revised Code. 613  
Any person who is committed pursuant to section 2945.39 or 614  
2945.40 of the Revised Code shall not voluntarily admit the 615  
person or be voluntarily admitted to a hospital or institution 616  
pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the 617  
Revised Code. All other provisions of Chapters 5122. and 5123. 618  
of the Revised Code regarding hospitalization or 619  
institutionalization shall apply to the extent they are not in 620

conflict with this chapter. A commitment under section 2945.39 621  
or 2945.40 of the Revised Code shall not be terminated and the 622  
conditions of the commitment shall not be changed except as 623  
otherwise provided in division (D) (2) of this section with 624  
respect to a person with an intellectual disability subject to 625  
institutionalization by court order or except by order of the 626  
trial court. 627

(C) The department of mental health and addiction services 628  
or the institution, facility, or program to which a defendant or 629  
person has been committed under section 2945.39 or 2945.40 of 630  
the Revised Code shall report in writing to the trial court, at 631  
the times specified in this division, as to whether the 632  
defendant or person remains a person with a mental illness 633  
subject to court order or a person with an intellectual 634  
disability subject to institutionalization by court order and, 635  
in the case of a defendant committed under section 2945.39 of 636  
the Revised Code, as to whether the defendant remains 637  
incompetent to stand trial. The department, institution, 638  
facility, or program shall make the reports after the initial 639  
six months of treatment and every two years after the initial 640  
report is made. The trial court shall provide copies of the 641  
reports to the prosecutor and to the counsel for the defendant 642  
or person. Within thirty days after its receipt pursuant to this 643  
division of a report from the department, institution, facility, 644  
or program, the trial court shall hold a hearing on the 645  
continued commitment of the defendant or person or on any 646  
changes in the conditions of the commitment of the defendant or 647  
person. The defendant or person may request a change in the 648  
conditions of confinement, and the trial court shall conduct a 649  
hearing on that request if six months or more have elapsed since 650  
the most recent hearing was conducted under this section. 651

(D) (1) Except as otherwise provided in division (D) (2) of 652  
this section, when a defendant or person has been committed 653  
under section 2945.39 or 2945.40 of the Revised Code, at any 654  
time after evaluating the risks to public safety and the welfare 655  
of the defendant or person, the designee of the department of 656  
mental health and addiction services or the managing officer of 657  
the institution or director of the facility or program to which 658  
the defendant or person is committed may recommend a termination 659  
of the defendant's or person's commitment or a change in the 660  
conditions of the defendant's or person's commitment. 661

Except as otherwise provided in division (D) (2) of this 662  
section, if the designee of the department of mental health and 663  
addiction services recommends on-grounds unsupervised movement, 664  
off-grounds supervised movement, or nonsecured status for the 665  
defendant or person or termination of the defendant's or 666  
person's commitment, the following provisions apply: 667

(a) If the department's designee recommends on-grounds 668  
unsupervised movement or off-grounds supervised movement, the 669  
department's designee shall file with the trial court an 670  
application for approval of the movement and shall send a copy 671  
of the application to the prosecutor. Within fifteen days after 672  
receiving the application, the prosecutor may request a hearing 673  
on the application and, if a hearing is requested, shall so 674  
inform the department's designee. If the prosecutor does not 675  
request a hearing within the fifteen-day period, the trial court 676  
shall approve the application by entering its order approving 677  
the requested movement or, within five days after the expiration 678  
of the fifteen-day period, shall set a date for a hearing on the 679  
application. If the prosecutor requests a hearing on the 680  
application within the fifteen-day period, the trial court shall 681  
hold a hearing on the application within thirty days after the 682

hearing is requested. If the trial court, within five days after 683  
the expiration of the fifteen-day period, sets a date for a 684  
hearing on the application, the trial court shall hold the 685  
hearing within thirty days after setting the hearing date. At 686  
least fifteen days before any hearing is held under this 687  
division, the trial court shall give the prosecutor written 688  
notice of the date, time, and place of the hearing. At the 689  
conclusion of each hearing conducted under this division, the 690  
trial court either shall approve or disapprove the application 691  
and shall enter its order accordingly. 692

(b) If the department's designee recommends termination of 693  
the defendant's or person's commitment at any time or if the 694  
department's designee recommends the first of any nonsecured 695  
status for the defendant or person, the department's designee 696  
shall send written notice of this recommendation to the trial 697  
court and to the local forensic center. The local forensic 698  
center shall evaluate the committed defendant or person and, 699  
within thirty days after its receipt of the written notice, 700  
shall submit to the trial court and the department's designee a 701  
written report of the evaluation. The trial court shall provide 702  
a copy of the department's designee's written notice and of the 703  
local forensic center's written report to the prosecutor and to 704  
the counsel for the defendant or person. Upon the local forensic 705  
center's submission of the report to the trial court and the 706  
department's designee, all of the following apply: 707

(i) If the forensic center disagrees with the 708  
recommendation of the department's designee, it shall inform the 709  
department's designee and the trial court of its decision and 710  
the reasons for the decision. The department's designee, after 711  
consideration of the forensic center's decision, shall either 712  
withdraw, proceed with, or modify and proceed with the 713

recommendation. If the department's designee proceeds with, or 714  
modifies and proceeds with, the recommendation, the department's 715  
designee shall proceed in accordance with division (D) (1) (b) 716  
(iii) of this section. 717

(ii) If the forensic center agrees with the recommendation 718  
of the department's designee, it shall inform the department's 719  
designee and the trial court of its decision and the reasons for 720  
the decision, and the department's designee shall proceed in 721  
accordance with division (D) (1) (b) (iii) of this section. 722

(iii) If the forensic center disagrees with the 723  
recommendation of the department's designee and the department's 724  
designee proceeds with, or modifies and proceeds with, the 725  
recommendation or if the forensic center agrees with the 726  
recommendation of the department's designee, the department's 727  
designee shall work with community mental health services 728  
providers, programs, facilities, or boards of alcohol, drug 729  
addiction, and mental health services or community mental health 730  
boards to develop a plan to implement the recommendation. If the 731  
defendant or person is on medication, the plan shall include, 732  
but shall not be limited to, a system to monitor the defendant's 733  
or person's compliance with the prescribed medication treatment 734  
plan. The system shall include a schedule that clearly states 735  
when the defendant or person shall report for a medication 736  
compliance check. The medication compliance checks shall be 737  
based upon the effective duration of the prescribed medication, 738  
taking into account the route by which it is taken, and shall be 739  
scheduled at intervals sufficiently close together to detect a 740  
potential increase in mental illness symptoms that the 741  
medication is intended to prevent. 742

The department's designee, after consultation with the 743

board of alcohol, drug addiction, and mental health services or 744  
the community mental health board serving the area, shall send 745  
the recommendation and plan developed under division (D) (1) (b) 746  
(iii) of this section, in writing, to the trial court, the 747  
prosecutor, and the counsel for the committed defendant or 748  
person. The trial court shall conduct a hearing on the 749  
recommendation and plan developed under division (D) (1) (b) (iii) 750  
of this section. Divisions (D) (1) (c) and (d) and (E) to (J) of 751  
this section apply regarding the hearing. 752

(c) If the department's designee's recommendation is for 753  
nonsecured status or termination of commitment, the prosecutor 754  
may obtain an independent expert evaluation of the defendant's 755  
or person's mental condition, and the trial court may continue 756  
the hearing on the recommendation for a period of not more than 757  
thirty days to permit time for the evaluation. 758

The prosecutor may introduce the evaluation report or 759  
present other evidence at the hearing in accordance with the 760  
Rules of Evidence. 761

(d) The trial court shall schedule the hearing on a 762  
department's designee's recommendation for nonsecured status or 763  
termination of commitment and shall give reasonable notice to 764  
the prosecutor and the counsel for the defendant or person. 765  
Unless continued for independent evaluation at the prosecutor's 766  
request or for other good cause, the hearing shall be held 767  
within thirty days after the trial court's receipt of the 768  
recommendation and plan. 769

(2) (a) Division (D) (1) of this section does not apply to 770  
on-grounds unsupervised movement of a defendant or person who 771  
has been committed under section 2945.39 or 2945.40 of the 772  
Revised Code, who is a person with an intellectual disability 773

subject to institutionalization by court order, and who is being 774  
provided residential habilitation, care, and treatment in a 775  
facility operated by the department of developmental 776  
disabilities. 777

(b) If, pursuant to section 2945.39 of the Revised Code, 778  
the trial court commits a defendant who is found incompetent to 779  
stand trial and who is a person with an intellectual disability 780  
subject to institutionalization by court order, if the defendant 781  
is being provided residential habilitation, care, and treatment 782  
in a facility operated by the department of developmental 783  
disabilities, if an individual who is conducting a survey for 784  
the department of health to determine the facility's compliance 785  
with the certification requirements of the medicaid program 786  
cites the defendant's receipt of the residential habilitation, 787  
care, and treatment in the facility as being inappropriate under 788  
the certification requirements, if the defendant's receipt of 789  
the residential habilitation, care, and treatment in the 790  
facility potentially jeopardizes the facility's continued 791  
receipt of federal medicaid moneys, and if as a result of the 792  
citation the chief clinical officer of the facility determines 793  
that the conditions of the defendant's commitment should be 794  
changed, the department of developmental disabilities may cause 795  
the defendant to be removed from the particular facility and, 796  
after evaluating the risks to public safety and the welfare of 797  
the defendant and after determining whether another type of 798  
placement is consistent with the certification requirements, may 799  
place the defendant in another facility that the department 800  
selects as an appropriate facility for the defendant's continued 801  
receipt of residential habilitation, care, and treatment and 802  
that is a no less secure setting than the facility in which the 803  
defendant had been placed at the time of the citation. Within 804

three days after the defendant's removal and alternative 805  
placement under the circumstances described in division (D) (2) 806  
(b) of this section, the department of developmental 807  
disabilities shall notify the trial court and the prosecutor in 808  
writing of the removal and alternative placement. 809

The trial court shall set a date for a hearing on the 810  
removal and alternative placement, and the hearing shall be held 811  
within twenty-one days after the trial court's receipt of the 812  
notice from the department of developmental disabilities. At 813  
least ten days before the hearing is held, the trial court shall 814  
give the prosecutor, the department of developmental 815  
disabilities, and the counsel for the defendant written notice 816  
of the date, time, and place of the hearing. At the hearing, the 817  
trial court shall consider the citation issued by the individual 818  
who conducted the survey for the department of health to be 819  
prima-facie evidence of the fact that the defendant's commitment 820  
to the particular facility was inappropriate under the 821  
certification requirements of the medicaid program and 822  
potentially jeopardizes the particular facility's continued 823  
receipt of federal medicaid moneys. At the conclusion of the 824  
hearing, the trial court may approve or disapprove the 825  
defendant's removal and alternative placement. If the trial 826  
court approves the defendant's removal and alternative 827  
placement, the department of developmental disabilities may 828  
continue the defendant's alternative placement. If the trial 829  
court disapproves the defendant's removal and alternative 830  
placement, it shall enter an order modifying the defendant's 831  
removal and alternative placement, but that order shall not 832  
require the department of developmental disabilities to replace 833  
the defendant for purposes of continued residential 834  
habilitation, care, and treatment in the facility associated 835

with the citation issued by the individual who conducted the 836  
survey for the department of health. 837

(E) In making a determination under this section regarding 838  
nonsecured status or termination of commitment, the trial court 839  
shall consider all relevant factors, including, but not limited 840  
to, all of the following: 841

(1) Whether, in the trial court's view, the defendant or 842  
person currently represents a substantial risk of physical harm 843  
to the defendant or person or others; 844

(2) Psychiatric and medical testimony as to the current 845  
mental and physical condition of the defendant or person; 846

(3) Whether the defendant or person has insight into the 847  
defendant's or person's condition so that the defendant or 848  
person will continue treatment as prescribed or seek 849  
professional assistance as needed; 850

(4) The grounds upon which the state relies for the 851  
proposed commitment; 852

(5) Any past history that is relevant to establish the 853  
defendant's or person's degree of conformity to the laws, rules, 854  
regulations, and values of society; 855

(6) If there is evidence that the defendant's or person's 856  
mental illness is in a state of remission, the medically 857  
suggested cause and degree of the remission and the probability 858  
that the defendant or person will continue treatment to maintain 859  
the remissive state of the defendant's or person's illness 860  
should the defendant's or person's commitment conditions be 861  
altered. 862

(F) At any hearing held pursuant to division (C) or (D) (1) 863

or (2) of this section, the defendant or the person shall have 864  
all the rights of a defendant or person at a commitment hearing 865  
as described in section 2945.40 of the Revised Code. 866

(G) In a hearing held pursuant to division (C) or (D) (1) 867  
of this section, the prosecutor has the burden of proof as 868  
follows: 869

(1) For a recommendation of termination of commitment, to 870  
show by clear and convincing evidence that the defendant or 871  
person remains a person with a mental illness subject to court 872  
order or a person with an intellectual disability subject to 873  
institutionalization by court order; 874

(2) For a recommendation for a change in the conditions of 875  
the commitment to a less restrictive status, to show by clear 876  
and convincing evidence that the proposed change represents a 877  
threat to public safety or a threat to the safety of any person. 878

(H) In a hearing held pursuant to division (C) or (D) (1) 879  
or (2) of this section, the prosecutor shall represent the state 880  
or the public interest. 881

(I) At the conclusion of a hearing conducted under 882  
division (D) (1) of this section regarding a recommendation from 883  
the designee of the department of mental health and addiction 884  
services, managing officer of the institution, or director of a 885  
facility or program, the trial court may approve, disapprove, or 886  
modify the recommendation and shall enter an order accordingly. 887

(J) (1) A defendant or person who has been committed 888  
pursuant to section 2945.39 or 2945.40 of the Revised Code 889  
continues to be under the jurisdiction of the trial court until 890  
the final termination of the commitment. For purposes of 891  
division (J) of this section, the final termination of a 892

commitment occurs upon the earlier of one of the following: 893

(a) The defendant or person no longer is a person with a 894  
mental illness subject to court order or a person with an 895  
intellectual disability subject to institutionalization by court 896  
order, as determined by the trial court; 897

(b) The expiration of the maximum prison term or term of 898  
imprisonment that the defendant or person could have received if 899  
the defendant or person had been convicted of the most serious 900  
offense with which the defendant or person is charged or in 901  
relation to which the defendant or person was found not guilty 902  
by reason of insanity; 903

(c) The trial court enters an order terminating the 904  
commitment under the circumstances described in division (J) (2) 905  
(a) (ii) of this section. 906

(2) (a) If a defendant is found incompetent to stand trial 907  
and committed pursuant to section 2945.39 of the Revised Code, 908  
if neither of the circumstances described in divisions (J) (1) (a) 909  
and (b) of this section applies to that defendant, and if a 910  
report filed with the trial court pursuant to division (C) of 911  
this section indicates that the defendant presently is competent 912  
to stand trial or if, at any other time during the period of the 913  
defendant's commitment, the prosecutor, the counsel for the 914  
defendant, or the designee of the department of mental health 915  
and addiction services or the managing officer of the 916  
institution or director of the facility or program to which the 917  
defendant is committed files an application with the trial court 918  
alleging that the defendant presently is competent to stand 919  
trial and requesting a hearing on the competency issue or the 920  
trial court otherwise has reasonable cause to believe that the 921  
defendant presently is competent to stand trial and determines 922

on its own motion to hold a hearing on the competency issue, the 923  
trial court shall schedule a hearing on the competency of the 924  
defendant to stand trial, shall give the prosecutor, the counsel 925  
for the defendant, and the department's designee or the managing 926  
officer of the institution or the director of the facility to 927  
which the defendant is committed notice of the date, time, and 928  
place of the hearing at least fifteen days before the hearing, 929  
and shall conduct the hearing within thirty days of the filing 930  
of the application or of its own motion. If, at the conclusion 931  
of the hearing, the trial court determines that the defendant 932  
presently is capable of understanding the nature and objective 933  
of the proceedings against the defendant and of assisting in the 934  
defendant's defense, the trial court shall order that the 935  
defendant is competent to stand trial and shall be proceeded 936  
against as provided by law with respect to the applicable 937  
offenses described in division (C) (1) or (2) of section 2945.38 938  
of the Revised Code and shall enter whichever of the following 939  
additional orders is appropriate: 940

(i) If the trial court determines that the defendant 941  
remains a person with a mental illness subject to court order or 942  
a person with an intellectual disability subject to 943  
institutionalization by court order, the trial court shall order 944  
that the defendant's commitment to the department of mental 945  
health and addiction services or to an institution, facility, or 946  
program for the treatment of intellectual disabilities be 947  
continued during the pendency of the trial on the applicable 948  
offenses described in division (C) (1) or (2) of section 2945.38 949  
of the Revised Code. 950

(ii) If the trial court determines that the defendant no 951  
longer is a person with a mental illness subject to court order 952  
or a person with an intellectual disability subject to 953

institutionalization by court order, the trial court shall order 954  
that the defendant's commitment to the department of mental 955  
health and addiction services or to an institution, facility, or 956  
program for the treatment of intellectual disabilities shall not 957  
be continued during the pendency of the trial on the applicable 958  
offenses described in division (C) (1) or (2) of section 2945.38 959  
of the Revised Code. This order shall be a final termination of 960  
the commitment for purposes of division (J) (1) (c) of this 961  
section. 962

(b) If, at the conclusion of the hearing described in 963  
division (J) (2) (a) of this section, the trial court determines 964  
that the defendant remains incapable of understanding the nature 965  
and objective of the proceedings against the defendant or of 966  
assisting in the defendant's defense, the trial court shall 967  
order that the defendant continues to be incompetent to stand 968  
trial, that the defendant's commitment to the department of 969  
mental health and addiction services or to an institution, 970  
facility, or program for the treatment of intellectual 971  
disabilities shall be continued, and that the defendant remains 972  
subject to the jurisdiction of the trial court pursuant to that 973  
commitment, and to the provisions of this section, until the 974  
final termination of the commitment as described in division (J) 975  
(1) of this section. 976

**Section 2.** That existing sections 2945.38, 2945.39, and 977  
2945.401 of the Revised Code are hereby repealed. 978

**Section 3.** This act is hereby declared to be an emergency 979  
measure necessary for the immediate preservation of the public 980  
peace, health, and safety. The reason for such necessity is that 981  
immediate action is necessary to effect the change on existing 982  
cases where existing restoration of competency time limitations 983

are waning. Therefore, this act shall go into immediate effect.

984