



## Ohio Revised Code

### Section 2152.58 Hearing to determine competency.

Effective: September 30, 2011

Legislation: House Bill 86 - 129th General Assembly

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(A) Not less than fifteen nor more than thirty business days after receiving an evaluation under division (A) of section 2152.57 of the Revised Code or not less than fifteen nor more than thirty business days after receiving an additional evaluation under division (E) of that section, the court shall hold a hearing to determine the child's competency to participate in the proceeding.

(B) At a hearing held under this section, a competency assessment report may be admitted into evidence by stipulation. If the court contacts the evaluator to obtain clarification of the report contents, the court shall promptly inform all parties and allow each party to participate in each contact.

(C) In determining the competency of the child to participate in the proceeding, the court shall consider the content of all competency assessment reports admitted as evidence. The court may consider additional evidence, including the court's own observations of the child's conduct and demeanor in the courtroom.

(D)(1) Except as otherwise provided in this division, the court shall make a written determination as to the child's competency or incompetency based on a preponderance of the evidence within fifteen business days after completion of the hearing. The court, by journal entry, may extend the period for making the determination for not more than fifteen additional days. If the court extends the period for making the determination, it shall make the written determination within the period as extended.

(2) The court shall not find a child incompetent to proceed solely because the child is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. of the Revised Code, is or has been institutionalized under Chapter 5123. of the Revised Code, or is receiving or has received psychotropic or other medication, even if the child might become incompetent to proceed without that medication.



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