



Ohio Revised Code

Section 5924.503 Findings of competency or incompetency; evaluation and treatment of accused.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) If the issue of an accused's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 5924.502 of the Revised Code, finds that the accused is competent to stand trial, the accused shall be proceeded against as provided by law. If the court finds the accused competent to stand trial and the accused 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 accused's competence to stand trial unless the accused's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the accused is incompetent to stand trial and that there is a substantial probability that the accused will become competent to stand trial within one year if the accused is provided with a course of treatment, the court shall order the accused to undergo treatment. If the accused is being tried by a general court-martial and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the accused is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the accused will become competent to stand trial within one year if the accused is provided with a course of treatment, the court shall order continuing evaluation and treatment of the accused for a period not to exceed four months to determine whether there is a substantial probability that the accused will become competent to stand trial within one year if the accused is provided with a course of treatment.

(b) The court order for the accused to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the accused, if determined to require mental health treatment or continuing evaluation and treatment, shall be committed to the department of mental health and addiction services for treatment or continuing evaluation and treatment at a hospital, facility, or agency determined to be clinically appropriate by the department



of mental health and addiction services. The order may restrict the accused's freedom of movement as the court considers necessary. The trial counsel in the accused's case shall send to the chief clinical officer of the hospital, facility, or services provider where the accused is placed by the department of mental health and addiction services or to the managing officer of the institution, the director of the facility, or the person to which the accused is committed copies of relevant investigative reports and other background information that pertains to the accused and is available to the trial counsel unless the trial counsel determines that the release of any of the information in the investigative reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In committing the accused to the department of mental health and addiction services, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and, if the court finds that restrictions on the accused's freedom of movement are necessary, shall specify the least restrictive limitations on the person's freedom of movement determined to be necessary to protect public safety. In weighing these factors, the court shall give preference to protecting public safety.

(c) If the accused is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or services provider where the accused is placed, or the managing officer of the institution, the director of the facility, or the person to which the accused is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the accused's competency to stand trial, and if the accused lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or services provider where the accused is placed or the managing officer of the institution, the director of the facility, or the person to which the accused is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(d) If the accused is charged before a special or summary court-martial with an offense that is not a violation of section 5924.120, 5924.127, or 5924.128 of the Revised Code, the trial counsel may



hold the charges in abeyance while the accused engages in mental health treatment.

(2) If the court finds that the accused is incompetent to stand trial and that, even if the accused is provided with a course of treatment, there is not a substantial probability that the accused will become competent to stand trial within one year, the court shall order the discharge of the accused, unless upon motion of the trial counsel or on its own motion, the court either seeks to retain jurisdiction over the accused pursuant to division (A)(2) of section 5924.504 of the Revised Code or files an affidavit in the probate court for the civil commitment of the accused pursuant to Chapter 5122. of the Revised Code alleging that the accused is a mentally ill person subject to hospitalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the accused's mental condition that were prepared pursuant to section 5924.502 of the Revised Code.

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

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

(1) One year, if the accused is being tried by a general court-martial;

(2) Six months, if the accused is being tried before a special court-martial;

(3) Sixty days, if the accused is being tried before a summary court-martial.

(D) Any accused who is committed pursuant to this section shall not voluntarily admit the accused or be voluntarily admitted to a hospital or institution pursuant to section 5122.02 or 5122.15 of the Revised Code.

(E) Except as otherwise provided in this division, an accused who is charged with an offense and is



committed by the court under this section to the department of mental health and addiction services with restrictions on the accused's freedom of movement 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 an accused 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 accused 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 accused is placed by the department of mental health and addiction services. The chief clinical officer of the hospital or facility where the accused is placed by the department of mental health and addiction services or the managing officer of the institution or director of the facility to which the accused is committed or a designee of any of those persons may grant an accused movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the accused, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the accused is placed by the department of mental health and addiction services or the managing officer of the institution or director of the facility to which the accused is committed shall notify the court within twenty-four hours of the accused's movement to the medical facility for an emergency medical situation under this division.

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

- (1) Whenever the person believes the accused is capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense;
- (2) Fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section;
- (3) At a minimum, after each six months of treatment;
- (4) Whenever the person who supervises the treatment or continuing evaluation and treatment of an



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

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the accused's capability of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense. If, in the examiner's opinion, the accused remains incapable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense and there is a substantial probability that the accused will become capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense if the accused is provided with a course of treatment, if in the examiner's opinion the accused remains mentally ill, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the accused's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the trial counsel and defense counsel.

(H) If an accused is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the accused or the examiner of the accused who is employed or retained by the treating facility advises that there is not a substantial probability that the accused will become capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense even if the accused is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after an accused's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the accused is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the accused is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the accused is competent to stand trial, the accused shall be proceeded



against as provided by law.

(2) If the court finds that the accused is incompetent to stand trial, but that there is a substantial probability that the accused will become competent to stand trial if the accused is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change least restrictive limitations on the accused's freedom of movement.

(3) If the court finds that the accused is incompetent to stand trial, if the accused is being tried by a general court-martial, and if the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, or if the maximum time for treatment as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 5924.504 to 5924.506 of the Revised Code.

(4) If the court finds that the accused is incompetent to stand trial, if the accused is being tried before a special court-martial, and if the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, or if the maximum time for treatment as specified in division (C) of this section has expired, the court shall dismiss the charge against the accused. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the accused unless the court or trial counsel files an affidavit in probate court for civil commitment pursuant to Chapter 5122. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the accused for ten days pending civil commitment. All of the following provisions apply to persons being tried by a special court-martial who are committed by the probate court subsequent to the court's or trial counsel's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person to which the accused is committed or admitted shall do all of the following:



(i) Notify the trial counsel in writing of the discharge of the accused, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the accused will be discharged;

(ii) Notify the trial counsel in writing when the accused is absent without leave or is granted unsupervised, off-grounds movement and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the trial counsel in writing of the change of the accused's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the accused was committed or admitted on a voluntary status.

(b) The trial counsel shall promptly inform the convening authority of any notification received under division (H)(4)(a) of this section. Upon receiving notice that the accused will be granted unsupervised, off-grounds movement, the convening authority either shall refer the charges against the accused to an investigating officer again or promptly notify the court that the convening authority does not intend to refer the charges against the accused again.

(I) If an accused is convicted of a crime and sentenced to confinement, the accused's sentence shall be reduced by the total number of days the accused is confined for evaluation to determine the accused's competence to stand trial or treatment under this section and sections 5924.502 and 5924.504 of the Revised Code or by the total number of days the accused is confined for evaluation to determine the accused's mental condition at the time of the offense charged.