



Ohio Revised Code

Section 5924.502 Evaluation of accused's mental condition.

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 or if an accused enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the accused's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the accused's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under division (A) of this section, the trial counsel and the defense counsel may recommend to the court an examiner whom each prefers to perform one of the evaluations. If an accused enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defense counsel, the court shall inform the accused that the accused may have independent expert evaluation and that it will be obtained for the accused at public expense.

(C) If the court orders an evaluation under division (A) of this section, the accused shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order an accused who is not being held in pretrial confinement to submit to an evaluation under this section. If an accused who is not being held in pretrial confinement refuses to submit to a complete evaluation, the court may order the sheriff to take the accused into custody and deliver the accused to a center, program, or facility operated or certified by the department of mental health and addiction services where the accused may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D) An accused who is being held in pretrial confinement may be evaluated at the accused's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the accused to a program or facility operated or certified by the department of mental health and addiction services, where the accused may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the accused to the place of detention after the evaluation.

(E) If a court orders the evaluation to determine an accused's mental condition at the time of the



offense charged, the court shall inform the examiner of the offense with which the accused is charged.

(F) In conducting an evaluation of an accused's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the accused suffered at the time of the commission of the offense from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the trial counsel and defense counsel. The report shall include all of the following:

(1) The examiner's findings;

(2) The facts in reasonable detail on which the findings are based;

(3) If the evaluation was ordered to determine the accused's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the accused is capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense;

(b) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense, whether the accused presently is mentally ill;

(c) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense, the examiner's opinion as to the likelihood of the accused becoming capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense within one year if the accused is provided with a course of treatment;



(d) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense and that the accused presently is mentally ill, the examiner's recommendation as to the least restrictive placement or commitment alternative, consistent with the accused's treatment needs for restoration to competency and with the safety of the community;

(e) 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 and the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense and that the accused is presently mentally ill, the examiner's recommendation as to whether the accused is amenable to engagement in mental health treatment.

(4) If the evaluation was ordered to determine the accused's mental condition at the time of the offense charged, the examiner's findings as to whether the accused at the time of the offense charged did not know, as a result of a severe mental disease or defect, the wrongfulness of the accused's acts charged.

(H) An examiner appointed under divisions (A) and (B) of this section to evaluate an accused to determine the accused's competence to stand trial also may be appointed to evaluate an accused who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(I) No statement that an accused makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the accused's competence to stand trial or to the accused's mental condition at the time of the offense charged may be used against the accused on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the trial counsel or defense counsel may call as a witness any person who evaluated the accused or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the trial counsel or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.



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(J) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court.