



Ohio Administrative Code

Rule 5120:1-1-22 Confinement of mentally ill and mentally retarded releasees.

Effective: May 1, 2020

(A) Whenever a supervising officer has reason to believe, based upon reliable information or observation, that an offender appears to be mentally ill or intellectually disabled and in need of treatment which requires hospitalization or other special care, such information shall be immediately brought to the attention of the unit supervisor, who for purposes of this rule will be a designee of the chief of the adult parole authority. The unit supervisor will immediately evaluate the information and determine a course of action to insure that the rights of the community members and of the offender are fully protected.

(B) In determining an appropriate course of action, the least restrictive alternative shall be pursued while giving full consideration to the dangerousness of the offender to himself and to others. The following shall be considered by the unit supervisor when making that determination:

- (1) Whether hospitalization or special care is required; or
- (2) Whether to apply appropriate special conditions of release and continue supervision; or
- (3) Whether to arrange outpatient treatment at a suitable community facility; or
- (4) Whether to arrange for care and treatment at a suitable community residential treatment center for mentally ill or intellectually disabled persons; or
- (5) Whether to arrange for voluntary admission to a hospital; or
- (6) Whether to arrange for family, guardian, or other suitable person to file an affidavit for involuntary hospitalization in accordance with section 5122.11 of the Revised Code for mentally ill releasees or an affidavit for involuntary institutionalization in accordance with section 5123.71 of the Revised Code for intellectually disabled releasees; or



(7) Whether to arrange for an evaluation and, if appropriate:

(a) Commitment by the evaluator pursuant to section 5120.10 of the Revised Code (mentally ill releasees); or

(b) Filing of an affidavit, with certification, by the unit supervisor pursuant to section 5122.11 of the Revised Code (mentally ill releasees); or

(c) Filing of an affidavit, with certification, by the unit supervisor pursuant to section 5123.71 of the Revised Code (intellectually disabled releasees).

(8) Whether to arrange for a law enforcement officer to commit the releasee pursuant to section 5122.10 of the Revised Code (mentally ill releasees); or

(9) Whether to contact the chief, adult parole authority, or designee, for approval to file an affidavit, without certification, pursuant to section 5122.11 of the Revised Code (mentally ill releasees); or

(10) Whether to cause the arrest of the releasee in accordance with rule 5120:1-1-31 of the Administrative Code and pursue revocation of release pursuant to rule 5120:1-1-17 of the Administrative Code.

(C) Upon the supervising officer and unit supervisor concluding that the offender has a "mental illness" as defined by section 5122.01 of the Revised Code or is a "person with an intellectual disability subject to court order," as defined by section 5123.01 of the Revised Code, and that parole revocation is inappropriate at that time, the unit supervisor shall immediately pursue one of the following courses of action and immediately submit a report to the chief, adult parole authority, or his designee, with full particulars:

(1) Persuade the offender to voluntarily admit himself to a mental hospital; or

(2) Request the offender's family to file an affidavit pursuant to section 5122.11 of the Revised Code (mental illness); or



(3) Request a law enforcement officer to admit a mentally ill releasee pursuant to section 5122.10 of the Revised Code; or

(4) File an affidavit with certification pursuant to section 5122.11 of the Revised Code (mentally ill) or section 5123.71 of the Revised Code (intellectual disability); or

(5) File an affidavit pursuant to section 5122.11 of the Revised Code (mentally ill) or section 5123.71 of the Revised Code (intellectual disability) () without certification, if approval has been received by the chief, adult parole authority, or his designee.

(D) In the event of an emergency where time does not permit prior notification to the unit supervisor, or the chief, adult parole authority, or his designee, pursuant to paragraph (A) of this rule, the supervising officer is authorized to:

(1) Seek to cause the commitment of a mentally ill releasee by a law enforcement officer pursuant to section 5122.10 of the Revised Code; or

(2) Cause the commitment of the releasee pursuant to section 5122.11 of the Revised Code.

(E) Summary action by a supervising officer pursuant to paragraph (B) shall be immediately communicated to the chief, adult parole authority, or his designee, through the unit supervisor with full particulars in writing for review and final action.

(F) No affidavit for involuntary hospitalization shall be filed without a certification by a psychiatrist or a licensed clinical psychologist and licensed physician unless:

(1) The offender refuses to be evaluated; or

(2) The offender represents a substantial, imminent risk of physical harm to himself or others and commitment pursuant to section 5122.10 of the Revised Code is not possible.

(G) No affidavit for involuntary hospitalization, without certification, shall be filed until approval for filing has been granted by the chief, adult parole authority, or his designee, except as noted in



paragraph (D) of this rule. Whenever an affidavit is filed without certification, a report will be immediately forwarded to the chief, adult parole authority, or his designee, with full particulars as to why hospitalization is necessary, including documentation as to why certification was not possible.

(H) Whenever an offender is being evaluated for confinement at a mental institution or other mental health program, or is committed to an institution or facility, the appropriate mental health personnel shall be furnished:

(1) A copy of the written report prepared by the unit supervisor pursuant to paragraphs (C) and (E) of this rule; and

(2) Copies of relevant diagnostic reports in the files of the department of rehabilitation and correction.

(I) If an offender is committed to an inpatient facility of the department of mental health and addiction services or the department of developmental disabilities, the care and custody of the offender shall be administratively transferred from the department of rehabilitation and correction to the department of mental health and addiction services or the department of developmental disabilities.

(J) Upon certification by the director of the department of mental health and addiction services or the director of the department of developmental disabilities to the chief, adult parole authority or his designee, that the offender is recovered or is in need of less restrictive care and treatment, the chief, adult parole authority, or his designee, shall:

(1) Return the offender to his former status; or

(2) Re-evaluate the appropriateness of revocation proceedings; or

(3) Change the terms and conditions of release pursuant to rule 5120:1-1-12 of the Administrative Code.

(K) In the event the offender is found not to be mentally ill or a person with an intellectual disability



subject to court order, the unit supervisor, in consultation with the supervising officer, shall:

- (1) Return the offender to his former status; or
- (2) Re-evaluate the appropriateness of revocation proceedings; or
- (3) Change the terms and conditions of release pursuant to rule 5120:1-1-12 of the Administrative Code.