

Order #1B - Order Mandating a Psychiatric Evaluation of Defendant's Fitness to Proceed to Trial (Defendant Detained)

The text of the following proposed order has been drafted for use when the court needs a psychiatric or psychological report pursuant to N.J.S.A. 2C:4-5a due to questions regarding a defendant's fitness to proceed to trial. This order is to be used for defendants who are incarcerated. A qualified psychiatrist or licensed psychologist may conduct the initial evaluation to determine competency. If the defendant is found indeterminate and a qualified expert designated by the Commissioner determines hospitalization is clinically necessary to perform the examination then the court shall order defendant be placed in the custody of the Commissioner of the Department of Health for such examination. If hospitalization is necessary in this case, the court shall utilize Order #2 infra. If the defendant is found incompetent but a danger to self, others, or property as a result of mental illness, then Order #3 infra, should be utilized.

This order also contemplates a thirty day control date for counsel to inform the court of the status of the examination and a forty-five day date for a conference on the case status. These dates are implemented only to help the court and parties keep track of the case as the defendant awaits commitment and further examination.