

North Bay Regional
Health Centre



Centre régional
de santé de North Bay

A Summary of Important Features in Part XX.I of the Criminal Code and Considerations about Fitness to Stand Trial and Criminal Responsibility for Court Justice Officials in the Northeast Region

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Prepared by the Mental Health & the Law Service
North Bay Regional Health Centre

Preface

This summary focuses on points of common interest between the criminal justice and forensic mental health care systems in the Northeast Region of Ontario. It presents considerations working through key sections of Part XX.I of the Criminal Code. It is intended to be used as quick reference by Court Justice Officials and mental health court workers, not replacing any sections of the Code.

Major updates to this reference guide include the sections that are relevant to youth, and the new and amended sections related to the new High Risk Accused Designation.

¹ Section 672.1 of the Code defines court to include a justice and s. 2 of the Code defines justice as including a justice of the peace.

Section and Subject	Important Features of the Section	Considerations
<p>672.11 - Assessment Orders (Form 48*)</p> <p>Relevant to Youth</p>	<p>A court having jurisdiction over an accused in respect of an offence may order an assessment of the mental condition of the accused, if it has reasonable grounds to believe that such evidence is necessary to determine:</p> <p>(a) whether the accused is unfit to stand trial;</p> <p>(b) whether the accused was, at the time of the commission of the alleged offence, suffering from a mental disorder so as to be exempt from criminal responsibility by virtue of subsection 16(1);</p> <p>(c) whether the balance of the mind of the accused was disturbed at the time of commission of the alleged offence, where the accused is a female person charged with an offence arising out of the death of her newly-born child;</p> <p>(d) the appropriate disposition to be made, where a verdict of not criminally responsible on account of mental disorder or unfit to stand trial has been rendered in respect of the accused; or</p> <p>(e) whether an order should be made under section 672.851 for a stay of proceedings, where a verdict of unfit to stand trial has been rendered against the accused.</p> <p>This form is contained in the Criminal Code.</p>	<ul style="list-style-type: none"> • An accused is presumed to be fit to stand trial unless there is evidence to believe otherwise. • This section is silent about the evidence required to support the need for an assessment, and the grounds for such should plainly appear in the record of the court’s proceedings. • The accused must have the intellectual or cognitive, psychological and emotional wherewithal to participate in a criminal trial. Note that fitness can fluctuate. For guidelines on ordering a fitness assessment, refer to page 8. • An accused can have obvious signs of mental illness and still be fit to stand trial. • An accused whose fitness is in question must be represented by counsel and if they are not the court must appoint counsel. • Mental health court support workers can screen individuals for diversion and fitness and consult with the Crown, defence or duty counsel. They are not assessors and therefore must not be expected to testify about fitness or criminal responsibility. • Criminal responsibility assessments are carried out in our inpatient setting only. These assessments require considerable time interviewing the accused and reviewing police documents, witness statements, past medical and psychiatric records and information from collateral informants; however, we do complete “out of custody” inpatient assessments (for further details, see Section 672.16(1) Out of Custody Assessments on Page 3). • The purpose of an assessment order should never be to “get someone help/treatment”. Under most circumstances treatment will not be commenced by our psychiatrists unless the accused was already receiving treatment prior to admission. The court cannot order treatment during an assessment. (See Section 672.19” No Treatment Order on Assessment on page 3, and information about Treatment Orders on page 5). • Once the assessment is complete the North Bay Regional Health Centre (NBRHC) will send a report with expert opinion intended to help the court to make the appropriate finding.

* Sample form enclosed

Section and Subject	Important Features of the Section	Considerations
672.12 - Timing of Assessment Orders Relevant to Youth	This section describes when the court may make assessment orders.	<ul style="list-style-type: none">• The issue of fitness can be raised at any time during the proceedings by either the defence or Crown; however, fitness concerns are usually identified early in the proceedings, often at first appearance, even before a bail hearing.• The defence can raise the issue of criminal responsibility at any stage of the proceedings; the Crown on the other hand can usually raise the issue (with some exceptions) only after a finding of guilt and before a conviction has been recorded.

672.13 - Completing an Order for Assessment Relevant to Youth	When completing an assessment order, it must contain certain elements for it to be valid. It must specify where the assessment is to be conducted and by whom, the length of the order, including travel time, and whether the accused is to be detained in custody while the order is in force.	<ul style="list-style-type: none">• It is helpful to include additional information regarding the return to court date, as this is not always the same as the expiration date of the order.• Whether the accused is to be detained in custody while the order is in force, it is helpful to name both the NBRHC and jail/detention facility where the accused is to be detained as custody includes placement in a hospital for this purpose. This allows us to return the accused to jail/detention facility if the assessment is completed earlier, or if the accused is completely uncooperative or security is not manageable.
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Section and Subject	Important Features of the Section	Considerations
672.14 - Assessment Period Relevant to Youth	An assessment order shall not be in force for more than thirty days.	<ul style="list-style-type: none"> The usual length of an order to assess fitness is five days excluding travel time, weekends or holidays; however, the order can be written for up to thirty days if all parties are in agreement. Assessment orders should not exceed thirty days unless the court is satisfied that compelling circumstances exist. As per Section 672.15(1), the court may extend the assessment order for any further period that is necessary to complete the assessment of the accused. However, no extension of an assessment order can exceed thirty days and the period of the initial order, together with all extensions shall not exceed sixty days.

672.16(1) - Out of Custody Assessments Relevant to Youth	An accused may not be detained in custody for an assessment order. The exceptions listed in this section appear to be grounded in public safety. The court must be satisfied that based on evidence, custody is necessary or on evidence of a medical practitioner, custody is desirable and the accused consents to custody.	<ul style="list-style-type: none"> Assessments of criminal responsibility are only conducted in our inpatient setting and in practice, most are conducted with individuals who are in custody; however, out of custody assessments can be done when the court decides that detention in a jail is not justified. Such individuals are admitted to our inpatient setting as voluntary patients. For out of custody assessments, it is helpful to clearly write in the order that the individual is to remain as an inpatient at the NBRHC for the period of the assessment and be released upon completion of the assessment.
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672.19 No Treatment Order on Assessment. Relevant to Youth	This section is clear that an assessment order may not direct that any psychiatric or other treatment of the accused be carried out or that the accused be submitted to any treatment.	<ul style="list-style-type: none"> Form 48, the Assessment Order, does not contain any reference to treatment. The Assessment Order is reserved for the required assessment. A treatment order is separate from the assessment order and is explained in Sections 672.58, 59, 60, 61 and 62 on page 5.
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Section and Subject	Important Features of the Section	Considerations
<p>672.29 - Keep Fit Order *</p> <p>Relevant to Youth</p>	<p>Continued detention in hospital until the completion of the trial.</p> <p>This form is not contained in the Criminal Code. The attached sample was created by Justice Richard Schneider. It covers the provisions of Section 672.29 allowing the individual accused with a verdict of “fit to stand trial” to be hospitalized until the completion of the trial.</p>	<ul style="list-style-type: none"> • Where an accused is fit to stand trial, the court may order the accused to be detained in our hospital until the completion of the trial, if the court has reasonable grounds to believe that the accused would become unfit if released. • This form can only be used once the accused is found fit. It allows our hospital to keep the accused in hospital rather than returning them to jail where treatment may not be available/reliable or the environment may be such as to be counter therapeutic. • The form remains in effect until the completion of the trial. It is to be used to preserve fitness. • We encourage the courts to focus on providing rapid turnaround times between the assessment and trial proceedings in order to ensure that our beds remain available for other individuals requiring assessments.

<p>672.46 - Status Quo pending Review Board Hearing *</p> <p>Relevant to Youth</p>	<p>The court defers making a disposition to the Ontario Review Board (ORB) and the form is completed specifying whether the accused is to be released or detained in hospital pending the disposition by the (ORB).</p> <p>This form is not contained in the Criminal Code. The attached sample was created by Justice Richard Schneider and covers the provisions of Subsection 672.46(2) of the Criminal Code which permits the court to place an accused, upon the verdict of either “unfit or NCR”, in hospital pending the hearing before the ORB, rather than returning the accused to jail.</p>	<ul style="list-style-type: none"> • It is preferable to have disposition orders made by the ORB as they have particular expertise in crafting dispositions that are necessary and appropriate in the circumstances with public safety being a paramount consideration. Whilst awaiting an initial disposition hearing, hospital staff initiates a formal risk assessment process so the disposition made by the Board will be adequately informed. • Dispositions by the courts do not always serve the accused well as some conditions that are routinely included by the ORB may be missed. • When courts make disposition orders that include a provision for community living or conditional discharge orders, it does not give us the opportunity to find or approve appropriate accommodation for the accused, or for the accused to engage with our outreach clinicians, making follow up difficult. • The hospital is responsible for risk management and public safety with all individuals subject to Disposition Orders. • Where the court does not make a disposition, the ORB holds a disposition hearing within forty-five days of the court’s finding.
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* Sample form enclosed

Section and Subject	Important Features of the Section	Considerations
<p>672.58, 59, 60, 61 and 62 - Treatment Order *</p> <p>Relevant to Youth</p>	<p>These sections authorize a court to make a treatment order but only under specified circumstances.</p> <p>This form is not contained in the Criminal Code. The attached sample was created by Justice Richard Schneider. It is a modified version of a form produced by the Ontario Ministry of the Attorney General.</p>	<ul style="list-style-type: none"> The application of the provisions in the sections represents an extraordinary power of the court to order involuntary treatment of an accused without their consent or the consent of a substitute decision maker. It is important for the court to understand that treatment benefits must outweigh the risks of not getting treatment. The purpose of this order is to render an accused fit rather than to provide comprehensive treatment, and the order must specify a period of time, which cannot exceed a period of sixty days. This order can only be made if the court has heard testimony (including a number of other required elements) from a medical practitioner who has assessed the accused. The court must ensure that the prosecutor has notified the accused of the application for the order in writing. For treatment in a hospital, the consent of the Person in Charge of the Hospital is necessary. As a practical matter, it is also important for the court to understand that if the physician providing testimony is not the same physician as the one expected to provide treatment that is potentially problematic. The court should ensure that the physician providing testimony and the physician expected to provide treatment are in agreement on all matters being testified to. Please refer to our protocol on page 13.

<p>672.54 (c) and 672.57 – Disposition: Detention in Hospital and Warrant of Committal (Form 49)*</p> <p>While relevant to Youth, rarely used.</p>	<p>These sections authorize the court or the ORB to order the accused to be detained in custody in a hospital.</p> <p>Form 49 or the warrant of committal is contained in the Criminal Code.</p>	<ul style="list-style-type: none"> This form, along with a “New Accused Information Sheet” filled out by the Crown, is sent to the ORB within forty-eight hours. Form 49 is used when making a disposition pursuant to Section 672.54 (c). When doing so, the court or ORB shall issue a warrant of committal to the named hospital.
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* Sample form enclosed

Section and Subject	Important Features of the Section	Considerations
Mental Health Act – Form 8* Relevant to Youth	Order for admission under the Mental Health Act.	<ul style="list-style-type: none">• This form is sometimes used so that an accused can remain in hospital until their case has been decided by the courts, usually in circumstances where the assessment is recommending a finding of not criminally responsible (NCR).• The form cannot exceed sixty days. It is, however, renewable but we must ensure that a valid Form 8 is completed and on file especially for cases when there are several remand dates or court dates are changed.

672.5 (13) - Video links Relevant to Youth	If the accused agrees, the court may permit the accused to appear by closed circuit television or any other means that allow the court and the accused to engage in simultaneous visual and oral communication.	<ul style="list-style-type: none">• Assessments by video are only conducted for fitness when both the court and hospital are in agreement. A clinician must attend the assessment with the accused; this is important to ensure that the attention of the assessor can be drawn to any subtle symptom or sign that may not be conveyed in the transmission.• There are several advantages to using this type of technology including being able to provide the courts with timely assessments when bed availability is limited. However, access to a bed may remain a challenge after an accused is found unfit.• Although less frequent than video assessments, video remands are ideal given our large catchment area and the transportation costs and extensive distance which may cause undue stress and fatigue to the accused. As such, we encourage the use of video for this purpose. It is important that the court ensure that our hospital receives the legal authority to detain an accused in hospital, for example, when using and renewing a Form 8.
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* Sample form enclosed

Section and Subject	Important Features of the Section	Considerations
<p>Section 672.91 – Arrest without warrant for contravention of disposition (Form Justice Ordering Return to Hospital)*</p>	<p>When an individual subject to conditional discharge has breached or is suspected of breaching any condition of their order, the process for hospital readmission is different than if the person was on a detention order. The individual on a conditional discharge cannot be involuntarily returned to hospital without intervention by police and judiciary.</p> <p>The Outreach team of the Mental Health & the Law Service shall provide the police with copy of the individual’s disposition order / conditional discharge as well as the Order for return to hospital, signed by the District Judge or Justice of the Peace..</p> <p>If the police officer does not release or arrest the accused, the accused shall be taken before a justice having jurisdiction in the territorial division in which the accused is arrested, without unreasonable delay and in any event within 24 hours after the arrest. (Section 672.92).</p>	<ul style="list-style-type: none"> • Key elements of a conditional discharge includes: the patient continues to pose a significant with manageable risk to public safety; it allows the patient to live in the community subject to specific conditions specified in the Order. Typical conditions may require the patient to report to a hospital; refrain from use of alcohol or “street” drugs; report any change of address; and refrain from contact with certain individuals. • The outreach worker of the Mental Health & the Law Service will contact police with concerns of an individual’s breach of their order or risk to public safety. The outreach worker of the Mental Health & the Law Service will contact the police with concerns of an individual’s breach of their order or risk to public safety. The outreach worker will work with police officials to carry out the judiciary process. Of note, the outreach team has an on call system 24/7. • The individual should be placed on the court docket and must be seen without unreasonable delay, and must be provided with legal representation. The outreach team member is available to provide testimony to the breach of suspected breach. • If unable to complete this process, the judiciary may issue a remand and order to have the individual held in hospital until a return date is set by the court.

* Sample form enclosed

Section and Subject	Important Features of the Section	Considerations
Bill C-14: Amendment to create new section 672.5401	New statutory definition of “significant threat to the safety of the public”	<ul style="list-style-type: none">• The wording of this section was altered in a subtle way, resulting in a broader interpretation.• In 1999, the Supreme Court of Canada stated that threat posed must be “more than speculative in nature; it must be supported by evidence...” and must “also be ‘significant’, both in the sense that there must be a real risk of physical or psychological harm occurring to individuals in the community and in the sense that this potential harm must be serious” <i>Winko v. British Columbia [Forensic Psychiatric Institute, 1999, para 57</i>. Neither small risk of grave harm, nor high risk of trivial harm, is sufficient• In Bill C-14, a significant threat to safety of public means “a risk of serious physical or psychological harm to members of the public, including any victim of or witness to the offence, or any person under the age of 18 years, resulting from conduct that is criminal in nature but not necessarily violent.”

Bill C-14: Change to the Disposition Criteria in section 672.54	New Review Board disposition criteria.	<ul style="list-style-type: none">• The bill reformulates the criteria that the court or Review Board must consider when making one of the three dispositions (detention, conditional or absolute) provided for in section 672.54 of the Code.• It codifies that public safety is the “paramount consideration” of the Court or Review Board when making a disposition.• The previous standard ‘least restrictive and least onerous to the accused’ was used to formulate Disposition Orders. The new criterion is “necessary and appropriate in the circumstances”.
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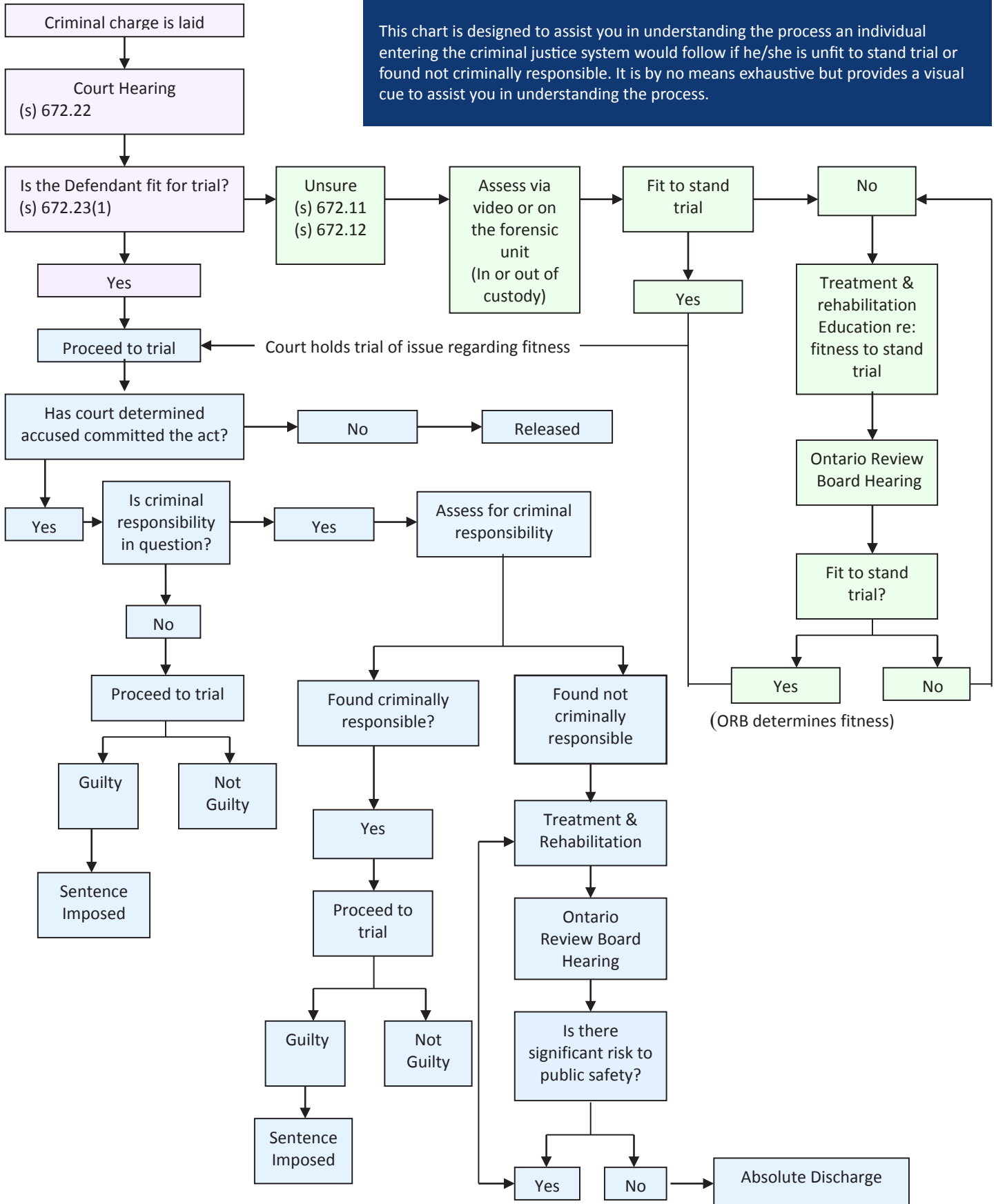
Section and Subject	Important Features of the Section	Considerations
New/amended sections: 672.64(1), 672.81(1.3), 672.84, 672.64(3), 672.81, 672.84	New section on the “High-Risk” Accused (HRA) Designation	<ul style="list-style-type: none">• The new section 672.64 allows a court to designate an accused who was 18 years of age or more at the time of the commission of the offence as a HRA. To be so designated, the accused must have been found not criminally responsible on account of mental disorder for a serious personal injury offence.• Section 672.81(1.3) defines a serious personal injury offence as including “the use of violence, conduct that endangers or is likely to endanger the life or safety of another person, conduct that inflicts or is likely to inflict severe psychological damage upon another person, sexual offences, and sexual assault”.• In the new section 672.84, it should be noted that this application must be made by the prosecutor and brought before the court before any disposition is made to discharge an accused absolutely. The court must be satisfied of one of two things: that there is a substantial likelihood that the accused will use violence that could endanger the life or safety of another person, OR that the acts that constituted the offence were of such a brutal nature as to indicate a risk of grave physical or psychological harm to another person.• The new section 672.64(3), provides that the HRA’s detention in hospital can only include periods outside the hospital if the person in charge of the hospital believes that the following conditions exist: the absence is an appropriate one for medical reasons or for a treatment and the accused is escorted by an authorized person; and a structured plan has been prepared to address any risk related to the accused’s absence and, as a result, that absence will not present an undue risk to the public.• In 672.81, the Review Board may extend the time for the next review of a disposition for up to 36 months if the accused (represented by counsel) and Crown consent, OR the accused’s condition is not likely to improve.• The new section 672.84 provides for the revocation of a finding of high-risk accused. If a Review Board holds a hearing regarding a high-risk accused under section 672.81 (annual review) or 672.82 (discretionary review), it must, on the basis of any relevant information and if it is satisfied that there is not a substantial likelihood that the high-risk accused will use violence that could endanger the life or safety of another person, refer the finding for review to the relevant superior court, which can revoke the finding.

Section and Subject	Important Features of the Section	Considerations
Bill C-14: Amendment to s.672.541		<ul style="list-style-type: none"><li data-bbox="760 199 1495 317">• Section 672.541 of the Code currently states that a court or Review Board must take into consideration any victim impact statement in making a disposition under Part XX.1 of the Code or in determining the appropriate disposition or conditions under section 672.54.<li data-bbox="760 352 1495 531">• The amended section states that the court must also consider a victim impact statement when considering whether to find that the accused is a HRA, or when revoking such a finding; any hearings involving a HRA; and that the victim be told both when an accused is released absolutely or conditionally and where the accused intends to live, if the victim requests this information.

Source for New and Amended Sections for High Risk Accused: Bill C-14, An Act to amend the Criminal Code and the National Defence Act (mental disorder). Publication No. 41-2-C14-E, 14 January, 2014. Retrieved from http://www.lopparl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?Language=E&ls=C14&Mode=1&Parl=41&Ses=2&source=library_prb#a14

Forensic Mental Health and Criminal Justice Flow Chart

This chart is designed to assist you in understanding the process an individual entering the criminal justice system would follow if he/she is unfit to stand trial or found not criminally responsible. It is by no means exhaustive but provides a visual cue to assist you in understanding the process.



Fitness Assessments

(adapted from Schneider, R.D., Bloom, H. & Heerema, M., 2007, Mental Health Courts: Decriminalizing the Mentally ill.)

Things to Consider:

Fitness is the ability to understand the nature, object, and possible consequences of what is happening in court as well as being able to communicate with and instruct counsel. When it is suspected that a person is unable to do so, an assessment may be warranted. Being mentally ill or having a mental illness is not an automatic indicator that an assessment is required. An accused can be unwell and still be fit to stand trial. A fitness assessment is not a treatment option. Treatment is not the purpose of the assessment, and may not be initiated unless person was already receiving treatment prior to hospital admission. Also, the court cannot order treatment during an assessment as outlined in Section 672.19 CCC. A treatment order to make an accused fit, may be initiated following the designation of “Unfit to stand trial” by the court. Fitness is not static and can fluctuate, meaning someone may be fit one day, and unfit another. Consequently, the issue of fitness can be raised at any time, from arrest to sentencing. Assessments can be facilitated via video in some jurisdictions.

Good Reasons to order an Assessment of Fitness

There is evidence that the accused is seeing or hearing things that are not there, and/or is having difficulty processing information which affects their ability to understand and/or participate in court processes. Some of the things you may see are:

- Confusion
- Inability to concentrate
- Apathy or withdrawal
- Muteness
- Disruptive behaviour
- Inappropriate mood
- Nonsensical speech
- Paranoid or bizarre ideas

Remember that it helps to ask, “Does this person understand what is happening to them legally, and are they able to provide you direction on how to proceed?” if the answer is no, an assessment request may be in order.

Bad Reasons to order an Assessment of Fitness

- Accused is difficult, rude, or angry, but there is no clear evidence or history of active mental illness.
- Accused has a history of mental illness, however; there are no indications that they are unable to understand the nature and object of the proceedings.
- It is suggested that the accused should go to hospital because they require treatment.
- Accused is homeless and has no where to go if released.
- Crown or Counsel wants to understand why or how the accused became a habitual criminal or “what is going on” with accused.
- It is suggested that the accused should be in hospital rather than in jail.
- Accused is unkempt, dishevelled or malodorous, but with no evidence or history of mental illness.
- Allegations disclose that the accused’s behaviour at the relevant time of offence was bizarre. This falls more to the issue of criminal responsibility.

There are resources that are available to assist in determining whether or not someone may require an assessment. Mental health clinicians are present in almost all courts in the Northeast. They can screen for diversion and fitness and consult with the court regarding indicators for assessments. They are all linked with the NBRHC (which performs the majority of forensic assessments in Northeastern Ontario), and may assist with arrangements for the assessment. It should be noted that while clinicians may help with the screening process, they are not assessors and should not be expected to act as such.

NBRHC Mental Health & the Law Service Treatment Disposition Protocol

Protocol to be followed for Treatment Dispositions made under the authority of Section 672.58 CCC, in circumstances where the medical practitioner providing testimony to the court (as required in Section 672.59) is not a physician working within the Mental Health & the Law Service of the NBRHC, or will not be the treating physician.

1. Authority to provide consent on behalf of the Person in Charge of the Hospital (Section 672.62(1)(a)) is delegated to the Director of the Mental Health & the Law Service (or delegate).
2. The Medical Practitioner intending to provide testimony to the court must first contact the Director of the Mental Health & the Law Service (or delegate) to provide notice of intent to provide testimony, and to provide appropriate clinical information about the Unfit Accused.
3. The Director of the Mental Health & the Law Service (or delegate) will consult with the Physician who will be assigned to provide treatment to the Unfit Accused.
4. If appropriate, the physician who will be assigned to provide treatment to the Unfit Accused will consult further with the Medical Practitioner proposing to give testimony to the court.
5. If all parties agree that the Treatment Disposition is an appropriate course of action, and the treating physician is in agreement with the specific treatment being recommended by the Medical Practitioner providing testimony, the Director of the Mental Health & the Law Service will consent to the Treatment Disposition on the Hospital's behalf.
6. The Medical Practitioner, in collaboration with the Director of the Mental Health & the Law Service (or delegate), will fax a letter to the court indicating the consent of the Person in Charge of the Hospital (and naming that person) making the Treatment Disposition. The letter will also specify whether or not a bed is immediately available.
7. The Medical Practitioner providing testimony will be asked to specifically request (via expert testimony) that the court includes in the Treatment Order the provision that "The treatment is to be carried out without the consent of the accused or a substitute decision maker."

FORM 48

(Section 672.13)

ASSESSMENT ORDER

Canada,

Province of

(territorial division)

Whereas I have reasonable grounds to believe that evidence of the mental condition of (name of accused), who has been charged with, may be necessary to determine*

- whether the accused is unfit to stand trial
- whether the accused suffered from a mental disorder so as to exempt the accused from criminal responsibility by virtue of subsection 16(1) of the *Criminal Code* at the time of the act or omission charged against the accused
- whether the accused is a dangerous mentally disordered accused under section 672.65 of the *Criminal Code*
- whether the balance of the mind of the accused was disturbed at the time of commission of the alleged offence, where the accused is a female person charged with an offence arising out of the death of her newly-born child
- where a verdict of unfit to stand trial or a verdict of not criminally responsible on account of mental disorder has been rendered in respect of the accused, the appropriate disposition to be made in respect of the accused pursuant to section 672.54 or 672.58 of the *Criminal Code*
- where the accused has been convicted of the offence, whether an order under subsection 747.1(1) of the *Criminal Code* should be made in respect of the accused

I hereby order an assessment of the mental condition of (name of accused) to be conducted by/at (name of person or service by whom or place where assessment is to be made) for a period of days.

This order is to be in force for a total of days, including travelling time, during which time the accused is to remain*

- in custody at (place where accused is to be detained)
- out of custody, on the following conditions:

(set out conditions, where applicable)

* Check applicable option.

Dated this day of A.D., at

.....

(Signature of justice or judge or clerk of the court, as the case may be)

Keep Fit" Order (Section 672.29)

CANADA

Section 672.29

PROVINCE OF ONTARIO

(Region)

WARRANT OF COMMITTAL

Detention of Accused in Hospital Until Completion of Trial (672.29)

To the peace officers in the said region, and to the keeper (administrator, warden) of the _____ (prison, hospital or other appropriate place where the accused is currently detained)

This warrant is issued for the committal of: (hereinafter called the accused) (accused name)

Whereas the accused has been charged that (set out briefly the offence in respect of which the accused was charged)

And whereas the accused, upon a trial of the issue, has been found *FIT TO STAND TRIAL* and there are reasonable grounds to believe that the accused would become unfit to stand trial if released.

It is therefore Ordered, pursuant to the provisions of section 672.29 of the *Criminal Code of Canada*, that you, _____ in her Majesty's name, take the accused in custody and convey the accused safely to the _____ (hospital) and there deliver the accused to the Administrator with the following precept:

I do therefore command you the said Administrator to receive the accused In your custody in the said hospital and to keep the accused safely there until the completion of the accused's trial or such earlier time as may be Ordered.

Dated at the (*territorial division*) this _____ (today's date)

Signature of Judge or Justice as the case may be.

Treatment Order (Section 672.58) TREATMENT ORDER

Ontario Court of Justice

CANADA Section 672.58

PROVINCE OF ONTARIO (Region)

WHEREAS (hereinafter referred to as the "Accused") (name of accused) has been charged with the following offence(s) (charges)

AND WHEREAS the accused was found unfit to stand trial on (today's date) by (name of Judge or Justice)

AND WHEREAS the prosecutor has applied for a treatment order pursuant to section 672.58 of the *Criminal Code*

AND WHEREAS the Court is satisfied on the basis of testimony of a medical practitioner that:

- i) a specified treatment should be administered to the accused for the purpose of making the accused fit to stand trial within a period not to exceed 60 days;
- ii) without the treatment the accused is likely to remain unfit to stand trial;
- iii) the risk of harm to the accused from the treatment is not disproportionate to the benefit anticipated to be derived; and
- iv) the treatment is the least restrictive and least intrusive that could be provided for the purpose.

AND WHEREAS the following person or persons have given their consent as required by s. 672.62:

_____ the person in charge of the hospital where the accused is to be treated or

_____ the person to whom responsibility for the treatment of the accused has been assigned by the court.

I HEREBY DIRECT the treatment of the accused is to be conducted by/at (Name of person or service by whom or place where treatment is to be administered) for a period of _____ days (*Not to exceed 60 days*)

I HEREBY DIRECT that the specific treatment to be administered to the accused be as follows:

I HEREBY DIRECT that during the time of the treatment the accused is to remain: (Check applicable option)

in custody at _____ and shall return to 102 court (place where accused to be detained) on _____ at _____ or such earlier date specified by the Administrator of the hospital. (return date) (time)

out of custody, on the following conditions: (set out conditions, where applicable)

Dated at the (territorial division) this _____ (today's date)

_____ Signature of Judge or Justice as the case may be.

Disposition: Detention in Hospital (Section 672.54(c))

FORM 49

(Section 672.57)

WARRANT OF COMMITTAL

DISPOSITION OF DETENTION

Canada,

Province of

(*territorial division*)

To the peace officers in the said (*territorial division*) and to the keeper (*administrator, warden*) of the (*prison, hospital or other appropriate place where the accused is detained*).

This warrant is issued for the committal of A.B., of _____, (*occupation*), hereinafter called the accused.

Whereas the accused has been charged that (*set out briefly the offence in respect of which the accused was charged*);

And whereas the accused was found*

- unfit to stand trial
- not criminally responsible on account of mental disorder

This is, therefore, to command you, in Her Majesty's name, to take the accused in custody and convey the accused safely to the (*prison, hospital or other appropriate place*) at _____, and there deliver the accused to the keeper (*administrator, warden*) with the following precept:

I do therefore command you the said keeper (*administrator, warden*) to receive the accused in your custody in the said (*prison, hospital or other appropriate place*) and to keep the accused safely there until the accused is delivered by due course of law.

The following are the conditions to which the accused shall be subject while in your (*prison, hospital or other appropriate place*):

The following are the powers regarding the restrictions (*and the limits and conditions on those restrictions*) on the liberty of the accused that are hereby delegated to you the said keeper (*administrator, warden*) of the said (*prison, hospital or other appropriate place*):

* Check applicable option.

Dated this ____ day of _____ a.d. _____, at _____.

(Signature of judge, clerk of the court, provincial court judge or chairperson of the Review Board).

Form 8: Assessment by a Hospital of an Accused who is In Custody

(Please see caveat below "When to use Form 8")

Ministry of Health

Form 8 *Mental Health Act*

Order for Admission

Subsection 22(1) of the Act

In the *(name of court)* held at *(address)*

TO the Peace Officers in the _____ of _____

AND TO *(name of psychiatric facility)*

WHEREAS *(name of person in full)* *(address)* is a person charged with *(offence)* contrary to section _____ of the _____;

AND WHEREAS he/she has appeared before me and I have reason to believe that he/she suffers from mental disorder;

AND WHEREAS I have ascertained from *(name of senior physician, as defined in the Act)* the senior physician of *(name of psychiatric facility)* that the services of the said psychiatric facility are available to the above-named person;

I HEREBY ORDER that the above-named shall be remanded for admission as a patient to the said psychiatric facility for a period of not more than _____;

AND I FURTHER ORDER and direct you, the said Peace Officers, or any of you, to convey him/her to said psychiatric facility;

AND I AUTHORIZE you, the authorities of said psychiatric facility, to admit him/her in accordance with this order.

_____ (Judge)

Date _____ (day / month / year)

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When to Use Form 8

**This form is sometimes used so that an accused can remain in hospital until their case is being decided by the courts and in circumstances where the assessment is recommending a finding of not criminally responsible (NCR).*

This form cannot exceed 60 days. It is however renewable but we must ensure that a valid Form 8 is completed and on file, especially for cases when there are several remand dates or court dates are changed.

Hospital Pending Review Board (Section 672.46(2))

CANADA *Section 672.46(2)*

PROVINCE OF ONTARIO

Toronto

(Region)

WARRANT OF COMMITTAL

Detention of Accused in Hospital Pending Disposition of the Ontario Review Board (672.46(2))

To the peace officers in the said region, and to the keeper (administrator, warden) of the (prison, hospital or other appropriate place where the accused is currently detained)

This warrant is issued for the committal of: (hereinafter called the accused) (accused name)

Whereas the accused has been charged that (set out briefly the offence in respect of which the accused was charged)

And whereas the accused, upon a trial of the issue, has been found

Check One

- UNFIT TO STAND TRIAL
- NOT CRIMINALLY RESPONSIBLE ON ACCOUNT OF MENTAL DISORDER,

and a Disposition has not been held pursuant to the provisions of sections 672.54,

It is therefore Ordered, pursuant to the provisions of section 672.46(2) of the *Criminal Code of Canada*, that you, in her Majesty's name, take the accused in custody and convey the accused safely to the (hospital) and there deliver the accused to the Administrator with the following precept:

I do therefore command you the said Administrator to receive the accused in your custody in the said hospital and to keep the accused safely there until a hearing has been held by the Ontario Review Board and a Disposition made.

Dated at the (*territorial division*) this _____ (today's date)

Signature of Judge or Justice as the case may be

IN THE MATTER OF _____

(DOB _____)

AND IN THE MATTER of allegation of a breach of Conditional Discharge of the
Ontario Review Board

ORDER

WHEREAS _____ is subject to a discharge on the
conditions under a Disposition of the Ontario Review Board dated _____;

AND WHEREAS _____ is alleged to have breached a
condition of the said Disposition by failing to abstain absolutely from the non-medical
use of alcohol or drugs or any other intoxicant;

AND WHEREAS the North Bay Regional Health Centre is the designated
facility to administer the said Disposition;

AND WHEREAS the North Bay Regional Health Centre seeks the detention of
the accused, _____, pending a hearing by the Ontario Review
Board.

1. **IT IS ORDERED** that the accused, _____, be
taken to the North Bay Regional Health Centre, and detained in the secure
Forensic unit, pending a review of his Disposition by the Ontario Review
Board, as soon as practicable with the following privileges;
 - a. Supervised hospital and ground privileges
 - b. Indirectly supervised Hospital and groups privileges
 - c. Supervised community privilegesAll privileges to be at the hospital's discretion
2. **IT IS ORDERED** that the _____ police service deliver the
accused, _____, to the said North Bay Regional Health
Centre forthwith, and this is their good and sufficient authority for that
purpose.
3. **This order** is made pursuant to Section 672.93 (2) of the Criminal Code of
Canada.

DATED at , _____ Ontario, this __ day of _____, 20__

**District Judge /or
Justice of the Peace**

North Bay Regional
Health Centre  Centre régional
de santé de North Bay

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50 College Drive, P.O. Box 2500, North Bay, Ontario P1B 5A4
Phone | 705 474-8600
www.nbrhc.on.ca