As Introduced

133rd General Assembly
Regular Session
2019-2020

H. B. No. 337

Representatives Stein, Galonski

A BILL

To amend sections 2151.421, 2317.02, and 2921.22 of the Revised Code to provide generally a privilege for communications between a qualified advocate rendering advocacy services and a victim of certain crimes, to exempt the nondisclosure of that privileged communication from the offense of failure to report a crime, and to generally require a qualified advocate to report child abuse or neglect of the victim.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2151.421, 2317.02, and 2921.22 of the Revised Code be amended to read as follows:

Sec. 2151.421. (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or
faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as otherwise provided in this division or section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. If the person making the report is a peace officer, the officer shall make it to the public children services agency in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; health care professional; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp, child day camp, or private, nonprofit therapeutic wilderness camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; peace officer; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and
family services who is a professional and who works with
children and families; superintendent or regional administrator
employed by the department of youth services; superintendent,
board member, or employee of a county board of developmental
disabilities; investigative agent contracted with by a county
board of developmental disabilities; employee of the department
of developmental disabilities; employee of a facility or home
that provides respite care in accordance with section 5123.171
of the Revised Code; employee of an entity that provides
homemaker services; a person performing the duties of an
assessor pursuant to Chapter 3107. or 5103. of the Revised Code;
third party employed by a public children services agency to
assist in providing child or family related services; court
appointed special advocate; or guardian ad litem, or qualified
advocate.

(c) If two or more health care professionals, after
providing health care services to a child, determine or suspect
that the child has been or is being abused or neglected, the
health care professionals may designate one of the health care
professionals to report the abuse or neglect. A single report
made under this division shall meet the reporting requirements
of division (A)(1) of this section.

(2) Except as provided in division (A)(3) of this section,
an attorney or a physician is not required to make a report
pursuant to division (A)(1) of this section concerning any
communication the attorney or physician receives from a client
or patient in an attorney-client or physician-patient
relationship, if, in accordance with division (A) or (B) of
section 2317.02 of the Revised Code, the attorney or physician
could not testify with respect to that communication in a civil
or criminal proceeding.
(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4)(a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a
similar position to believe, that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section 2317.02 of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

(c) The penitent in a cleric-penitent relationship
described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:

(i) The penitent, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a person under twenty-one years of age with a developmental disability or physical impairment without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.
(e) As used in divisions (A)(1) and (4) of this section, "cleric" and "sacred trust" have the same meanings as in section 2317.02 of the Revised Code.

(5)(a) Except as provided in division (A)(5)(b) of this section, a qualified advocate is not required to make a report pursuant to division (A)(1) of this section concerning any confidential communication the qualified advocate receives from a victim in a qualified advocate-victim relationship, if, in accordance with division (M) of section 2317.02 of the Revised Code, the qualified advocate could not testify with respect to that communication in a civil, criminal, administrative, or education discipline proceeding.

(b) The victim in a qualified advocate-victim relationship described in division (A)(5)(a) of this section is considered to have waived any testimonial privilege under division (M) of section 2317.02 of the Revised Code with respect to any confidential communication the qualified advocate receives from the victim in that qualified advocate-victim relationship, and the qualified advocate shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(i) The victim, at the time of the communication, is either a child under eighteen years of age or a person under twenty-one years of age with a developmental disability or physical impairment.

(ii) The qualified advocate knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the victim has suffered or faces a threat of
suffering any physical or mental wound, injury, disability, or
condition of a nature that reasonably indicates abuse or neglect
of the victim.

(iii) The abuse or neglect does not arise out of the
victim's attempt to have an abortion without the notification of
her parents, guardian, or custodian in accordance with section
2151.85 of the Revised Code.

(c) As used in divisions (A)(1) and (5) of this section,
"confidential communication," "qualified advocate," and "victim"
have the same meanings as in section 2317.02 of the Revised
Code.

(B) Anyone who knows, or has reasonable cause to suspect
based on facts that would cause a reasonable person in similar
circumstances to suspect, that a child under eighteen years of
age, or a person under twenty-one years of age with a
developmental disability or physical impairment, has suffered or
faces a threat of suffering any physical or mental wound,
injury, disability, or other condition of a nature that
reasonably indicates abuse or neglect of the child may report or
cause reports to be made of that knowledge or reasonable cause
to suspect to the entity or persons specified in this division.
Except as provided in section 5120.173 of the Revised Code, a
person making a report or causing a report to be made under this
division shall make it or cause it to be made to the public
children services agency or to a peace officer. In the
circumstances described in section 5120.173 of the Revised Code,
a person making a report or causing a report to be made under
this division shall make it or cause it to be made to the entity
specified in that section.

(C) Any report made pursuant to division (A) or (B) of
this section shall be made forthwith either by telephone or in
person and shall be followed by a written report, if requested
by the receiving agency or officer. The written report shall
contain:

(1) The names and addresses of the child and the child's
parents or the person or persons having custody of the child, if
known;

(2) The child's age and the nature and extent of the
child's injuries, abuse, or neglect that is known or reasonably
suspected or believed, as applicable, to have occurred or of the
threat of injury, abuse, or neglect that is known or reasonably
suspected or believed, as applicable, to exist, including any
evidence of previous injuries, abuse, or neglect;

(3) Any other information, including, but not limited to,
results and reports of any medical examinations, tests, or
procedures performed under division (D) of this section, that
might be helpful in establishing the cause of the injury, abuse,
or neglect that is known or reasonably suspected or believed, as
applicable, to have occurred or of the threat of injury, abuse,
or neglect that is known or reasonably suspected or believed, as
applicable, to exist.

(D)(1) Any person, who is required by division (A) of this
section to report child abuse or child neglect that is known or
reasonably suspected or believed to have occurred, may take or
cause to be taken color photographs of areas of trauma visible
on a child and, if medically necessary for the purpose of
diagnosing or treating injuries that are suspected to have
occurred as a result of child abuse or child neglect, perform or
cause to be performed radiological examinations and any other
medical examinations of, and tests or procedures on, the child.
(2) The results and any available reports of examinations, tests, or procedures made under division (D)(1) of this section shall be included in a report made pursuant to division (A) of this section. Any additional reports of examinations, tests, or procedures that become available shall be provided to the public children services agency, upon request.

(3) If a health care professional provides health care services in a hospital, children's advocacy center, or emergency medical facility to a child about whom a report has been made under division (A) of this section, the health care professional may take any steps that are reasonably necessary for the release or discharge of the child to an appropriate environment. Before the child's release or discharge, the health care professional may obtain information, or consider information obtained, from other entities or individuals that have knowledge about the child. Nothing in division (D)(3) of this section shall be construed to alter the responsibilities of any person under sections 2151.27 and 2151.31 of the Revised Code.

(4) A health care professional may conduct medical examinations, tests, or procedures on the siblings of a child about whom a report has been made under division (A) of this section and on other children who reside in the same home as the child, if the professional determines that the examinations, tests, or procedures are medically necessary to diagnose or treat the siblings or other children in order to determine whether reports under division (A) of this section are warranted with respect to such siblings or other children. The results of the examinations, tests, or procedures on the siblings and other children may be included in a report made pursuant to division (A) of this section.
(5) Medical examinations, tests, or procedures conducted under divisions (D)(1) and (4) of this section and decisions regarding the release or discharge of a child under division (D)(3) of this section do not constitute a law enforcement investigation or activity.

(E)(1) When a peace officer receives a report made pursuant to division (A) or (B) of this section, upon receipt of the report, the peace officer who receives the report shall refer the report to the appropriate public children services agency, unless an arrest is made at the time of the report that results in the appropriate public children services agency being contacted concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.
(F) No peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(G)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (K) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (I)(1) of
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this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(H)(1)(a) Except as provided in divisions (H)(1)(b) and (I)(3) of this section, any person, health care professional, hospital, institution, school, health department, or agency shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of any of the following:

(i) Participating in the making of reports pursuant to division (A) of this section or in the making of reports in good faith, pursuant to division (B) of this section;

(ii) Participating in medical examinations, tests, or
procedures under division (D) of this section;

   (iii) Providing information used in a report made pursuant to division (A) of this section or providing information in good faith used in a report made pursuant to division (B) of this section;

   (iv) Participating in a judicial proceeding resulting from a report made pursuant to division (A) of this section or participating in good faith in a proceeding resulting from a report made pursuant to division (B) of this section.

   (b) Immunity under division (H)(1)(a)(ii) of this section shall not apply when a health care provider has deviated from the standard of care applicable to the provider's profession.

   (c) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(I)(1) Except as provided in divisions (I)(4) and (O) of this section, a report made under this section is confidential.
The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (N) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2)(a) Except as provided in division (I)(2)(b) of this section, no person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(b) A health care professional that obtains the same information contained in a report made under this section from a source other than the report may disseminate the information, if its dissemination is otherwise permitted by law.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of
this section and the child who is the subject of the report dies
for any reason at any time after the report is made, but before
the child attains eighteen years of age, the public children
services agency or peace officer to which the report was made or
referred, on the request of the child fatality review board or
the director of health pursuant to guidelines established under
section 3701.70 of the Revised Code, shall submit a summary
sheet of information providing a summary of the report to the
review board of the county in which the deceased child resided
at the time of death or to the director. On the request of the
review board or director, the agency or peace officer may, at
its discretion, make the report available to the review board or
director. If the county served by the public children services
agency is also served by a children's advocacy center and the
report of alleged sexual abuse of a child or another type of
abuse of a child is specified in the memorandum of understanding
that creates the center as being within the center's
jurisdiction, the agency or center shall perform the duties and
functions specified in this division in accordance with the
interagency agreement entered into under section 2151.428 of the
Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a
person alleged to have inflicted abuse or neglect on a child who
is the subject of a report made pursuant to this section,
including a report alleging sexual abuse of a child or another
type of abuse of a child referred to a children's advocacy
center pursuant to an interagency agreement entered into under
section 2151.428 of the Revised Code, in writing of the
disposition of the investigation. The agency shall not provide
to the person any information that identifies the person who
made the report, statements of witnesses, or police or other
investigative reports.

(J) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(K)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;
(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society;

(i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:
(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4) If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (K)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(L)(1) Except as provided in division (L)(4) or (5) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:
(a) Whether the agency or center has initiated an investigation of the report;

(b) Whether the agency or center is continuing to investigate the report;

(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (L)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (L)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (L)(1) of this section a reasonable number of times, except that the agency shall not
disclose any confidential information regarding the child who is
the subject of the report other than the information described
in those divisions.

(3) A request made pursuant to division (L)(1) of this
section is not a substitute for any report required to be made
pursuant to division (A) of this section.

(4) If an agency other than the agency that received or
was referred the report is conducting the investigation of the
report pursuant to section 2151.422 of the Revised Code, the
agency conducting the investigation shall comply with the
requirements of division (L) of this section.

(5) A health care professional who made a report under
division (A) of this section, or on whose behalf such a report
was made as provided in division (A)(1)(c) of this section, may
authorize a person to obtain the information described in
division (L)(1) of this section if the person requesting the
information is associated with or acting on behalf of the health
care professional who provided health care services to the child
about whom the report was made.

(M) The director of job and family services shall adopt
rules in accordance with Chapter 119. of the Revised Code to
implement this section. The department of job and family
services may enter into a plan of cooperation with any other
governmental entity to aid in ensuring that children are
protected from abuse and neglect. The department shall make
recommendations to the attorney general that the department
determines are necessary to protect children from child abuse
and child neglect.

(N) Whoever violates division (A) of this section is
liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(O)(1) As used in this division:

(a) "Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b) "Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the
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administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(P) As used in this section:

(1) "Children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.
(2) "Health care professional" means an individual who provides health-related services including a physician, hospital intern or resident, dentist, podiatrist, registered nurse, licensed practical nurse, visiting nurse, licensed psychologist, speech pathologist, audiologist, person engaged in social work or the practice of professional counseling, and employee of a home health agency. "Health care professional" does not include a practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, licensed school psychologist, independent marriage and family therapist or marriage and family therapist, or coroner.

(3) "Investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.

(4) "Peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, or a state highway patrol trooper.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A)(1) An attorney, concerning a communication made to the attorney by a client in that relation or concerning the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily reveals the substance of attorney-client communications in a nonprivileged context or is deemed by section 2151.421 of the Revised Code to have waived
any testimonial privilege under this division, the attorney may
be compelled to testify on the same subject.

The testimonial privilege established under this division
does not apply concerning either of the following:

(a) A communication between a client in a capital case, as
defined in section 2901.02 of the Revised Code, and the client's
attorney if the communication is relevant to a subsequent
ineffective assistance of counsel claim by the client alleging
that the attorney did not effectively represent the client in
the case;

(b) A communication between a client who has since died
and the deceased client's attorney if the communication is
relevant to a dispute between parties who claim through that
deceased client, regardless of whether the claims are by testate
or intestate succession or by inter vivos transaction, and the
dispute addresses the competency of the deceased client when the
deceased client executed a document that is the basis of the
dispute or whether the deceased client was a victim of fraud,
undue influence, or duress when the deceased client executed a
document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the
attorney by a client in that relationship or the attorney's
advice to a client, except that if the client is an insurance
company, the attorney may be compelled to testify, subject to an
in camera inspection by a court, about communications made by
the client to the attorney or by the attorney to the client that
are related to the attorney's aiding or furthering an ongoing or
future commission of bad faith by the client, if the party
seeking disclosure of the communications has made a prima-facie
showing of bad faith, fraud, or criminal misconduct by the
client.

(B)(1) A physician, advanced practice registered nurse, or dentist concerning a communication made to the physician, advanced practice registered nurse, or dentist by a patient in that relation or the advice of a physician, advanced practice registered nurse, or dentist given to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician or advanced practice registered nurse may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician, advanced practice registered nurse, or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code, a claim under Chapter 5501.10 of the Revised Code, or a claim under Chapter 5533. of the Revised Code, any of the following circumstances:

(1) If the patient or the guardian or other legal representative of the patient gives express consent;
Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151 of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician, advanced practice registered nurse, or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician, advanced practice registered nurse, or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician, advanced practice registered nurse, or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the
confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician, advanced practice registered nurse, or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, advanced practice registered nurse, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26.
(v) A person to whom protected health information is
disclosed under division (B)(1)(e)(i) of this section shall not
use or disclose the protected health information for any purpose
other than the litigation or proceeding for which the
information was requested and shall return the protected health
information to the covered entity or destroy the protected
health information, including all copies made, at the conclusion
of the litigation or proceeding.

(2)(a) If any law enforcement officer submits a written
statement to a health care provider that states that an official
criminal investigation has begun regarding a specified person or
that a criminal action or proceeding has been commenced against
a specified person, that requests the provider to supply to the
officer copies of any records the provider possesses that
pertain to any test or the results of any test administered to
the specified person to determine the presence or concentration
of alcohol, a drug of abuse, a combination of them, a controlled
substance, or a metabolite of a controlled substance in the
person's whole blood, blood serum or plasma, breath, or urine at
any time relevant to the criminal offense in question, and that
conforms to section 2317.022 of the Revised Code, the provider,
except to the extent specifically prohibited by any law of this
state or of the United States, shall supply to the officer a
copy of any of the requested records the provider possesses. If
the health care provider does not possess any of the requested
records, the provider shall give the officer a written statement
that indicates that the provider does not possess any of the
requested records.

(b) If a health care provider possesses any records of the
type described in division (B)(2)(a) of this section regarding
the person in question at any time relevant to the criminal
offense in question, in lieu of personally testifying as to the
results of the test in question, the custodian of the records
may submit a certified copy of the records, and, upon its
submission, the certified copy is qualified as authentic
evidence and may be admitted as evidence in accordance with the
Rules of Evidence. Division (A) of section 2317.422 of the
Revised Code does not apply to any certified copy of records
submitted in accordance with this division. Nothing in this
division shall be construed to limit the right of any party to
call as a witness the person who administered the test to which
the records pertain, the person under whose supervision the test
was administered, the custodian of the records, the person who
made the records, or the person under whose supervision the
records were made.

(3)(a) If the testimonial privilege described in division
(B)(1) of this section does not apply as provided in division
(B)(1)(a)(iii) of this section, a physician, advanced practice
registered nurse, or dentist may be compelled to testify or to
submit to discovery under the Rules of Civil Procedure only as
to a communication made to the physician, advanced practice
registered nurse, or dentist by the patient in question in that
relation, or the advice of the physician, advanced practice
registered nurse, or dentist given to the patient in question,
that related causally or historically to physical or mental
injuries that are relevant to issues in the medical claim,
dental claim, chiropractic claim, or optometric claim, action
for wrongful death, other civil action, or claim under Chapter
4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)
(1) of this section does not apply to a physician, advanced
practice registered nurse, or dentist as provided in division
(B)(1)(c) of this section, the physician, advanced practice
registered nurse, or dentist, in lieu of personally testifying
as to the results of the test in question, may submit a
certified copy of those results, and, upon its submission, the
certified copy is qualified as authentic evidence and may be
admitted as evidence in accordance with the Rules of Evidence.

Division (A) of section 2317.422 of the Revised Code does not
apply to any certified copy of results submitted in accordance
with this division. Nothing in this division shall be construed
to limit the right of any party to call as a witness the person
who administered the test in question, the person under whose
supervision the test was administered, the custodian of the
results of the test, the person who compiled the results, or the
person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1)
of this section is not waived when a communication is made by a
physician or advanced practice registered nurse to a pharmacist
or when there is communication between a patient and a
pharmacist in furtherance of the physician-patient or advanced
practice registered nurse-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section,
"communication" means acquiring, recording, or transmitting any
information, in any manner, concerning any facts, opinions, or
statements necessary to enable a physician, advanced practice
registered nurse, or dentist to diagnose, treat, prescribe, or
act for a patient. A "communication" may include, but is not
limited to, any medical or dental, office, or hospital
communication such as a record, chart, letter, memorandum,
laboratory test and results, x-ray, photograph, financial
statement, diagnosis, or prognosis.
(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician, advanced practice registered nurse, or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a
nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, advanced practice registered nurses, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians or advanced practice registered nurses who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code and "advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect,
concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of
the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.
(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under
division (A) of section 3109.052 of the Revised Code or
otherwise issued in any proceeding for divorce, dissolution,
legal separation, annulment, or the allocation of parental
rights and responsibilities for the care of children, in any
action or proceeding, other than a criminal, delinquency, child
abuse, child neglect, or dependent child action or proceeding,
that is brought by or against either parent who takes part in
mediation in accordance with the order and that pertains to the
mediation process, to any information discussed or presented in
the mediation process, to the allocation of parental rights and
responsibilities for the care of the parents' children, or to
the awarding of parenting time rights in relation to their
children;

(I) A communications assistant, acting within the scope of
the communication assistant's authority, when providing
telecommunications relay service pursuant to section 4931.06 of
the Revised Code or Title II of the "Communications Act of
communication made through a telecommunications relay service.
Nothing in this section shall limit the obligation of a
communications assistant to divulge information or testify when
mandated by federal law or regulation or pursuant to subpoena in
a criminal proceeding.

Nothing in this section shall limit any immunity or
privilege granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a
communication made to the chiropractor by a patient in that
relation or the chiropractor's advice to a patient, except as
otherwise provided in this division. The testimonial privilege
established under this division does not apply, and a
chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J) (1) of this section does not apply as provided in division (J) (1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this
division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response
services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication
made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;

(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

(M)(1) Subject to division (M)(2) of this section and except as provided in division (M)(3) of this section, a qualified advocate, in any civil, criminal, administrative, or education discipline proceeding, concerning either of the following:

(a) A confidential communication made by a victim to a
qualified advocate or by a qualified advocate to a victim in the course of safety planning, counseling, support, or advocacy services provided by the qualified advocate to the victim and related to the domestic violence, human trafficking, menacing by stalking, or sexual violence for which the victim sought those services;

(b) A record created or maintained in the course of the qualified advocate providing safety planning, counseling, support, or advocacy services regarding the victim and related to the domestic violence, human trafficking, menacing by stalking, or sexual violence for which the victim sought those services.

(2) If the victim voluntarily reveals the substance of any qualified advocate-victim communication in a nonprivileged context or is considered by division (A)(5)(b) of section 2151.421 of the Revised Code to have waived any testimonial privilege under division (M)(1) of this section, the qualified advocate may be compelled to testify on the same subject in any proceeding described in division (M)(1) of this section.

(3) The testimonial privilege established under division (M)(1) of this section does not apply concerning any of the following:

(a) A confidential communication between a qualified advocate and a victim in a civil, criminal, administrative, or education discipline action or proceeding brought against the qualified advocate or the qualified victim services program of which the qualified advocate is an employee or volunteer by the victim or by any other person in relation to the safety planning, counseling, support, or advocacy services provided to the victim, if the confidential communication is relevant to the
defense of the qualified advocate or qualified victim services program:

(b) A disclosure of aggregate, nonpersonally identifiable data.

(4) As used in division (M) of this section:

(a) "Aggregate, nonpersonally identifiable data" means all data from or through which the person to whom the data pertains cannot be identified.

(b) "Confidential communication" means any written or oral communication that is intended for the purpose of furthering the interest of the victim in the course of safety planning, counseling, support, or advocacy services and is not intended for further disclosure to another person except any of the following:

(i) Any person who is present at the time the communication is made and is present in order to further the interest of the victim in the course of seeking safety planning, counseling, support, or advocacy services;

(ii) Any person who is reasonably necessary for the transmission of the communication;

(iii) Any other persons in the context of group counseling;

(iv) Any person to whom disclosure is reasonably necessary to accomplish a purpose for which the victim consulted the qualified advocate and to whom information is disclosed pursuant to a voluntary and knowing written informed consent given by the victim to the qualified advocate.

(c) "Domestic violence" means any of the following:
(i) Any conduct that is described in division (A)(1)(a) of section 3113.31 of the Revised Code;

(ii) Any conduct that is prohibited in an existing or former municipal ordinance or law of this state, any other state, or the United States and that is or was substantially equivalent to any conduct described in division (M)(4)(c)(i) of this section.

(d) "Human trafficking" means any of the following:

(i) Any conduct that is described in division (A) of section 2905.32 of the Revised Code;

(ii) Any conduct that is prohibited in an existing or former municipal ordinance or law of this state, any other state, or the United States and that is or was substantially equivalent to any conduct described in division (M)(4)(d)(i) of this section.

(e) "Menacing by stalking" means any of the following:

(i) Any conduct that is described in division (A) of section 2903.211 of the Revised Code;

(ii) Any conduct that is described in division (A) of section 2903.22 of the Revised Code;

(iii) Any conduct that is prohibited in an existing or former municipal ordinance or law of this state, any other state, or the United States and that is or was substantially equivalent to any conduct described in division (M)(4)(e)(i) or (ii) of this section.

(f)(i) "Qualified advocate" means any person who has completed at least forty hours of training in advocacy for victims of domestic violence, human trafficking, menacing by
stalking, or sexual violence, or has registered for such a training program and is under the supervision of a qualified advocate and who is an employee or volunteer of a qualified victim services program.

(ii) The term "qualified," as used in division (M)(4)(f) (i) of this section, pertains exclusively to the advocacy requirements of this section, and does not apply to the definitions of "victim advocate" in any other section of the Revised Code.

(g) "Qualified victim services program" means either of the following:

(i) A nongovernmental, nonprofit, community-based program that receives moneys administered by a local, state, or federal government agency; offers safety planning, counseling, support, or advocacy services to victims of domestic violence, human trafficking, menacing by stalking, or sexual violence; and adheres to the standards set forth by the federally recognized state sexual violence or state domestic violence coalitions;

(ii) A rape crisis program.

(h) "Rape crisis program" has the same meaning as in division (A)(1)(a) or (c) of section 109.921 of the Revised Code.

(i) "Sexual violence" means any of the following:

(i) Any conduct that would be a violation of any prohibition in Chapter 2907. of the Revised Code;

(ii) Any conduct that would constitute a sexually oriented offense as defined in section 2950.01 of the Revised Code;

(iii) Any conduct that is prohibited in an existing or
former municipal ordinance or law of this state, any other state, or the United States and that is or was substantially equivalent to any conduct described in division (M)(4)(i)(i) or (ii) of this section.

(j) "Victim" means a person who seeks safety planning, counseling, support, or advocacy services at a qualified victim services program if those services are related to domestic violence, human trafficking, menacing by stalking, or sexual violence against the person.

Sec. 2921.22. (A)(1) Except as provided in division (A)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of section 2913.04 of the Revised Code has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(B) Except for conditions that are within the scope of division (E) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(C) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a
condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this division, "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

(D) No person shall fail to provide upon request of the person to whom a report required by division (C) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(E)(1) As used in this division, "burn injury" means any of the following:

(a) Second or third degree burns;

(b) Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;

(c) Any burn injury or wound that may result in death;

(d) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by section 3743.01 of the Revised Code.

(2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail
to report the burn injury immediately to the local arson, or
fire and explosion investigation, bureau, if there is a bureau
of this type in the jurisdiction in which the person is attended
or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent, or other person in charge
of a hospital, sanitarium, or other medical facility in which a
person is attended or treated for any burn injury that is
inflicted by an explosion or other incendiary device or that
shows evidence of having been inflicted in a violent, malicious,
or criminal manner shall fail to report the burn injury
immediately to the local arson, or fire and explosion
investigation, bureau, if there is a bureau of this type in the
jurisdiction in which the person is attended or treated, or
otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury
under division (E)(2) or (3) of this section shall fail to file,
within three working days after attending or treating the
victim, a written report of the burn injury with the office of
the state fire marshal. The report shall comply with the uniform
standard developed by the state fire marshal pursuant to
division (A)(15) of section 3737.22 of the Revised Code.

(5) Anyone participating in the making of reports under
division (E) of this section or anyone participating in a
judicial proceeding resulting from the reports is immune from
any civil or criminal liability that otherwise might be incurred
or imposed as a result of such actions. Notwithstanding section
4731.22 of the Revised Code, the physician-patient relationship
or advanced practice registered nurse-patient relationship is
not a ground for excluding evidence regarding a person’s burn
injury or the cause of the burn injury in any judicial
proceeding resulting from a report submitted under division (E) of this section.

(F)(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in section 3113.31 of the Revised Code, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under division (F)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(G) Divisions (A) and (D) of this section do not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the
member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call; or a qualified advocate and a victim of domestic violence, human trafficking, menacing by stalking, or sexual violence.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under section 2739.04 or 2739.12 of the Revised Code.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to section 5119.36 of the Revised Code.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section
2907.02 or 2907.05 of the Revised Code or to victims of
felonious sexual penetration in violation of former section
2907.12 of the Revised Code. As used in this division,
"counseling services" include services provided in an informal
setting by a person who, by education or experience, is
competent to provide those services.

(7)(a) Disclosure would amount to revealing information
acquired by the actor in the course of the actor's duties in a
designated victim advocacy office, women's center, health
center, or other program to which all of the following apply:

(i) The office, center, or program provides safety
planning, counseling, support, or advocacy services to victims
of domestic violence, human trafficking, menacing by stalking,
or sexual violence.

(ii) The office, center, or program employs or otherwise
engages one or more qualified advocates.

(iii) The office, center, or program has a memorandum of
understanding with a qualified victim services program.

(b) As used in divisions (G)(1) and (7) of this section:

(i) "Domestic violence," "human trafficking," "menacing by
stalking," "qualified victim services program," "sexual
violence," and "victim" have the same meanings as in division
(M) of section 2317.02 of the Revised Code.

(ii) "Qualified advocate" means any person who has
completed at least forty hours of training in advocacy for
victims of domestic violence, human trafficking, menacing by
stalking, or sexual violence, and who is an employee or
volunteer of a designated victim advocacy office, women's
center, health center, or other program described in division
(G)(7)(a) of this section.

(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(I) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division (A)(1) of this section is a misdemeanor of the fourth degree. Violation of division (A)(2) or (B) of this section is a misdemeanor of the second degree.

(J) Whoever violates division (C) or (D) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(K)(1) Whoever negligently violates division (E) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (E) of this section is guilty of a misdemeanor of the second degree.

(L) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

Section 2. That existing sections 2151.421, 2317.02, and 2921.22 of the Revised Code are hereby repealed.

Section 3. Section 2921.22 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 216 and Sub. S.B. 319 of the 131st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of
the section in effect prior to the effective date of the section as presented in this act.