

As Introduced

133rd General Assembly

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H. B. No. 337

Representatives Stein, Galonski

Cosponsors: Representatives Blair, Lepore-Hagan, Lightbody, Manning, G., Miller, J., Riedel, Sobecki, Swearingen, Weinstein

A BILL

To amend sections 2151.421, 2317.02, and 2921.22 of 1
the Revised Code to provide generally a 2
privilege for communications between a qualified 3
advocate rendering advocacy services and a 4
victim of certain crimes, to exempt the 5
nondisclosure of that privileged communication 6
from the offense of failure to report a crime, 7
and to generally require a qualified advocate to 8
report child abuse or neglect of the victim. 9

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

Section 1. That sections 2151.421, 2317.02, and 2921.22 of 10
the Revised Code be amended to read as follows: 11

Sec. 2151.421. (A) (1) (a) No person described in division 12
(A) (1) (b) of this section who is acting in an official or 13
professional capacity and knows, or has reasonable cause to 14
suspect based on facts that would cause a reasonable person in a 15
similar position to suspect, that a child under eighteen years 16
of age, or a person under twenty-one years of age with a 17
developmental disability or physical impairment, has suffered or 18

faces a threat of suffering any physical or mental wound, 19
injury, disability, or condition of a nature that reasonably 20
indicates abuse or neglect of the child shall fail to 21
immediately report that knowledge or reasonable cause to suspect 22
to the entity or persons specified in this division. Except as 23
otherwise provided in this division or section 5120.173 of the 24
Revised Code, the person making the report shall make it to the 25
public children services agency or a peace officer in the county 26
in which the child resides or in which the abuse or neglect is 27
occurring or has occurred. If the person making the report is a 28
peace officer, the officer shall make it to the public children 29
services agency in the county in which the child resides or in 30
which the abuse or neglect is occurring or has occurred. In the 31
circumstances described in section 5120.173 of the Revised Code, 32
the person making the report shall make it to the entity 33
specified in that section. 34

(b) Division (A) (1) (a) of this section applies to any 35
person who is an attorney; health care professional; 36
practitioner of a limited branch of medicine as specified in 37
section 4731.15 of the Revised Code; licensed school 38
psychologist; independent marriage and family therapist or 39
marriage and family therapist; coroner; administrator or 40
employee of a child day-care center; administrator or employee 41
of a residential camp, child day camp, or private, nonprofit 42
therapeutic wilderness camp; administrator or employee of a 43
certified child care agency or other public or private children 44
services agency; school teacher; school employee; school 45
authority; peace officer; agent of a county humane society; 46
person, other than a cleric, rendering spiritual treatment 47
through prayer in accordance with the tenets of a well- 48
recognized religion; employee of a county department of job and 49

family services who is a professional and who works with 50
children and families; superintendent or regional administrator 51
employed by the department of youth services; superintendent, 52
board member, or employee of a county board of developmental 53
disabilities; investigative agent contracted with by a county 54
board of developmental disabilities; employee of the department 55
of developmental disabilities; employee of a facility or home 56
that provides respite care in accordance with section 5123.171 57
of the Revised Code; employee of an entity that provides 58
homemaker services; a person performing the duties of an 59
assessor pursuant to Chapter 3107. or 5103. of the Revised Code; 60
third party employed by a public children services agency to 61
assist in providing child or family related services; court 62
appointed special advocate; ~~or~~ guardian ad litem, or qualified 63
advocate. 64

(c) If two or more health care professionals, after 65
providing health care services to a child, determine or suspect 66
that the child has been or is being abused or neglected, the 67
health care professionals may designate one of the health care 68
professionals to report the abuse or neglect. A single report 69
made under this division shall meet the reporting requirements 70
of division (A)(1) of this section. 71

(2) Except as provided in division (A)(3) of this section, 72
an attorney or a physician is not required to make a report 73
pursuant to division (A)(1) of this section concerning any 74
communication the attorney or physician receives from a client 75
or patient in an attorney-client or physician-patient 76
relationship, if, in accordance with division (A) or (B) of 77
section 2317.02 of the Revised Code, the attorney or physician 78
could not testify with respect to that communication in a civil 79
or criminal proceeding. 80

(3) The client or patient in an attorney-client or 81
physician-patient relationship described in division (A) (2) of 82
this section is deemed to have waived any testimonial privilege 83
under division (A) or (B) of section 2317.02 of the Revised Code 84
with respect to any communication the attorney or physician 85
receives from the client or patient in that attorney-client or 86
physician-patient relationship, and the attorney or physician 87
shall make a report pursuant to division (A) (1) of this section 88
with respect to that communication, if all of the following 89
apply: 90

(a) The client or patient, at the time of the 91
communication, is a child under eighteen years of age or is a 92
person under twenty-one years of age with a developmental 93
disability or physical impairment. 94

(b) The attorney or physician knows, or has reasonable 95
cause to suspect based on facts that would cause a reasonable 96
person in similar position to suspect that the client or patient 97
has suffered or faces a threat of suffering any physical or 98
mental wound, injury, disability, or condition of a nature that 99
reasonably indicates abuse or neglect of the client or patient. 100

(c) The abuse or neglect does not arise out of the 101
client's or patient's attempt to have an abortion without the 102
notification of her parents, guardian, or custodian in 103
accordance with section 2151.85 of the Revised Code. 104

(4) (a) No cleric and no person, other than a volunteer, 105
designated by any church, religious society, or faith acting as 106
a leader, official, or delegate on behalf of the church, 107
religious society, or faith who is acting in an official or 108
professional capacity, who knows, or has reasonable cause to 109
believe based on facts that would cause a reasonable person in a 110

similar position to believe, that a child under eighteen years 111
of age, or a person under twenty-one years of age with a 112
developmental disability or physical impairment, has suffered or 113
faces a threat of suffering any physical or mental wound, 114
injury, disability, or condition of a nature that reasonably 115
indicates abuse or neglect of the child, and who knows, or has 116
reasonable cause to believe based on facts that would cause a 117
reasonable person in a similar position to believe, that another 118
cleric or another person, other than a volunteer, designated by 119
a church, religious society, or faith acting as a leader, 120
official, or delegate on behalf of the church, religious 121
society, or faith caused, or poses the threat of causing, the 122
wound, injury, disability, or condition that reasonably 123
indicates abuse or neglect shall fail to immediately report that 124
knowledge or reasonable cause to believe to the entity or 125
persons specified in this division. Except as provided in 126
section 5120.173 of the Revised Code, the person making the 127
report shall make it to the public children services agency or a 128
peace officer in the county in which the child resides or in 129
which the abuse or neglect is occurring or has occurred. In the 130
circumstances described in section 5120.173 of the Revised Code, 131
the person making the report shall make it to the entity 132
specified in that section. 133

(b) Except as provided in division (A) (4) (c) of this 134
section, a cleric is not required to make a report pursuant to 135
division (A) (4) (a) of this section concerning any communication 136
the cleric receives from a penitent in a cleric-penitent 137
relationship, if, in accordance with division (C) of section 138
2317.02 of the Revised Code, the cleric could not testify with 139
respect to that communication in a civil or criminal proceeding. 140

(c) The penitent in a cleric-penitent relationship 141

described in division (A) (4) (b) of this section is deemed to 142
have waived any testimonial privilege under division (C) of 143
section 2317.02 of the Revised Code with respect to any 144
communication the cleric receives from the penitent in that 145
cleric-penitent relationship, and the cleric shall make a report 146
pursuant to division (A) (4) (a) of this section with respect to 147
that communication, if all of the following apply: 148

(i) The penitent, at the time of the communication, is a 149
child under eighteen years of age or is a person under twenty- 150
one years of age with a developmental disability or physical 151
impairment. 152

(ii) The cleric knows, or has reasonable cause to believe 153
based on facts that would cause a reasonable person in a similar 154
position to believe, as a result of the communication or any 155
observations made during that communication, the penitent has 156
suffered or faces a threat of suffering any physical or mental 157
wound, injury, disability, or condition of a nature that 158
reasonably indicates abuse or neglect of the penitent. 159

(iii) The abuse or neglect does not arise out of the 160
penitent's attempt to have an abortion performed upon a child 161
under eighteen years of age or upon a person under twenty-one 162
years of age with a developmental disability or physical 163
impairment without the notification of her parents, guardian, or 164
custodian in accordance with section 2151.85 of the Revised 165
Code. 166

(d) Divisions (A) (4) (a) and (c) of this section do not 167
apply in a cleric-penitent relationship when the disclosure of 168
any communication the cleric receives from the penitent is in 169
violation of the sacred trust. 170

(e) As used in divisions (A) (1) and (4) of this section, 171
"cleric" and "sacred trust" have the same meanings as in section 172
2317.02 of the Revised Code. 173

(5) (a) Except as provided in division (A) (5) (b) of this 174
section, a qualified advocate is not required to make a report 175
pursuant to division (A) (1) of this section concerning any 176
confidential communication the qualified advocate receives from 177
a victim in a qualified advocate-victim relationship, if, in 178
accordance with division (M) of section 2317.02 of the Revised 179
Code, the qualified advocate could not testify with respect to 180
that communication in a civil, criminal, administrative, or 181
education discipline proceeding. 182

(b) The victim in a qualified advocate-victim relationship 183
described in division (A) (5) (a) of this section is considered to 184
have waived any testimonial privilege under division (M) of 185
section 2317.02 of the Revised Code with respect to any 186
confidential communication the qualified advocate receives from 187
the victim in that qualified advocate-victim relationship, and 188
the qualified advocate shall make a report pursuant to division 189
(A) (1) of this section with respect to that communication, if 190
all of the following apply: 191

(i) The victim, at the time of the communication, is 192
either a child under eighteen years of age or a person under 193
twenty-one years of age with a developmental disability or 194
physical impairment. 195

(ii) The qualified advocate knows, or has reasonable cause 196
to believe based on facts that would cause a reasonable person 197
in a similar position to believe, as a result of the 198
communication or any observations made during that 199
communication, the victim has suffered or faces a threat of 200

suffering any physical or mental wound, injury, disability, or 201
condition of a nature that reasonably indicates abuse or neglect 202
of the victim. 203

(iii) The abuse or neglect does not arise out of the 204
victim's attempt to have an abortion without the notification of 205
her parents, guardian, or custodian in accordance with section 206
2151.85 of the Revised Code. 207

(c) As used in divisions (A) (1) and (5) of this section, 208
"confidential communication," "qualified advocate," and "victim" 209
have the same meanings as in section 2317.02 of the Revised 210
Code. 211

(B) Anyone who knows, or has reasonable cause to suspect 212
based on facts that would cause a reasonable person in similar 213
circumstances to suspect, that a child under eighteen years of 214
age, or a person under twenty-one years of age with a 215
developmental disability or physical impairment, has suffered or 216
faces a threat of suffering any physical or mental wound, 217
injury, disability, or other condition of a nature that 218
reasonably indicates abuse or neglect of the child may report or 219
cause reports to be made of that knowledge or reasonable cause 220
to suspect to the entity or persons specified in this division. 221
Except as provided in section 5120.173 of the Revised Code, a 222
person making a report or causing a report to be made under this 223
division shall make it or cause it to be made to the public 224
children services agency or to a peace officer. In the 225
circumstances described in section 5120.173 of the Revised Code, 226
a person making a report or causing a report to be made under 227
this division shall make it or cause it to be made to the entity 228
specified in that section. 229

(C) Any report made pursuant to division (A) or (B) of 230

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, 261
tests, or procedures made under division (D)(1) of this section 262
shall be included in a report made pursuant to division (A) of 263
this section. Any additional reports of examinations, tests, or 264
procedures that become available shall be provided to the public 265
children services agency, upon request. 266

(3) If a health care professional provides health care 267
services in a hospital, children's advocacy center, or emergency 268
medical facility to a child about whom a report has been made 269
under division (A) of this section, the health care professional 270
may take any steps that are reasonably necessary for the release 271
or discharge of the child to an appropriate environment. Before 272
the child's release or discharge, the health care professional 273
may obtain information, or consider information obtained, from 274
other entities or individuals that have knowledge about the 275
child. Nothing in division (D)(3) of this section shall be 276
construed to alter the responsibilities of any person under 277
sections 2151.27 and 2151.31 of the Revised Code. 278

(4) A health care professional may conduct medical 279
examinations, tests, or procedures on the siblings of a child 280
about whom a report has been made under division (A) of this 281
section and on other children who reside in the same home as the 282
child, if the professional determines that the examinations, 283
tests, or procedures are medically necessary to diagnose or 284
treat the siblings or other children in order to determine 285
whether reports under division (A) of this section are warranted 286
with respect to such siblings or other children. The results of 287
the examinations, tests, or procedures on the siblings and other 288
children may be included in a report made pursuant to division 289
(A) of this section. 290

(5) Medical examinations, tests, or procedures conducted	291
under divisions (D) (1) and (4) of this section and decisions	292
regarding the release or discharge of a child under division (D)	293
(3) of this section do not constitute a law enforcement	294
investigation or activity.	295
(E) (1) When a peace officer receives a report made	296
pursuant to division (A) or (B) of this section, upon receipt of	297
the report, the peace officer who receives the report shall	298
refer the report to the appropriate public children services	299
agency, unless an arrest is made at the time of the report that	300
results in the appropriate public children services agency being	301
contacted concerning the possible abuse or neglect of a child or	302
the possible threat of abuse or neglect of a child.	303
(2) When a public children services agency receives a	304
report pursuant to this division or division (A) or (B) of this	305
section, upon receipt of the report, the public children	306
services agency shall do both of the following:	307
(a) Comply with section 2151.422 of the Revised Code;	308
(b) If the county served by the agency is also served by a	309
children's advocacy center and the report alleges sexual abuse	310
of a child or another type of abuse of a child that is specified	311
in the memorandum of understanding that creates the center as	312
being within the center's jurisdiction, comply regarding the	313
report with the protocol and procedures for referrals and	314
investigations, with the coordinating activities, and with the	315
authority or responsibility for performing or providing	316
functions, activities, and services stipulated in the	317
interagency agreement entered into under section 2151.428 of the	318
Revised Code relative to that center.	319

(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

this section and protects the rights of the person making the 351
report under this section. 352

A failure to make the investigation in accordance with the 353
memorandum is not grounds for, and shall not result in, the 354
dismissal of any charges or complaint arising from the report or 355
the suppression of any evidence obtained as a result of the 356
report and does not give, and shall not be construed as giving, 357
any rights or any grounds for appeal or post-conviction relief 358
to any person. The public children services agency shall report 359
each case to the uniform statewide automated child welfare 360
information system that the department of job and family 361
services shall maintain in accordance with section 5101.13 of 362
the Revised Code. The public children services agency shall 363
submit a report of its investigation, in writing, to the law 364
enforcement agency. 365

(2) The public children services agency shall make any 366
recommendations to the county prosecuting attorney or city 367
director of law that it considers necessary to protect any 368
children that are brought to its attention. 369

(H) (1) (a) Except as provided in divisions (H) (1) (b) and 370
(I) (3) of this section, any person, health care professional, 371
hospital, institution, school, health department, or agency 372
shall be immune from any civil or criminal liability for injury, 373
death, or loss to person or property that otherwise might be 374
incurred or imposed as a result of any of the following: 375

(i) Participating in the making of reports pursuant to 376
division (A) of this section or in the making of reports in good 377
faith, pursuant to division (B) of this section; 378

(ii) Participating in medical examinations, tests, or 379

procedures under division (D) of this section; 380

(iii) Providing information used in a report made pursuant 381
to division (A) of this section or providing information in good 382
faith used in a report made pursuant to division (B) of this 383
section; 384

(iv) Participating in a judicial proceeding resulting from 385
a report made pursuant to division (A) of this section or 386
participating in good faith in a proceeding resulting from a 387
report made pursuant to division (B) of this section. 388

(b) Immunity under division (H) (1) (a) (ii) of this section 389
shall not apply when a health care provider has deviated from 390
the standard of care applicable to the provider's profession. 391

(c) Notwithstanding section 4731.22 of the Revised Code, 392
the physician-patient privilege shall not be a ground for 393
excluding evidence regarding a child's injuries, abuse, or 394
neglect, or the cause of the injuries, abuse, or neglect in any 395
judicial proceeding resulting from a report submitted pursuant 396
to this section. 397

(2) In any civil or criminal action or proceeding in which 398
it is alleged and proved that participation in the making of a 399
report under this section was not in good faith or participation 400
in a judicial proceeding resulting from a report made under this 401
section was not in good faith, the court shall award the 402
prevailing party reasonable attorney's fees and costs and, if a 403
civil action or proceeding is voluntarily dismissed, may award 404
reasonable attorney's fees and costs to the party against whom 405
the civil action or proceeding is brought. 406

(I) (1) Except as provided in divisions (I) (4) and (O) of 407
this section, a report made under this section is confidential. 408

The information provided in a report made pursuant to this 409
section and the name of the person who made the report shall not 410
be released for use, and shall not be used, as evidence in any 411
civil action or proceeding brought against the person who made 412
the report. Nothing in this division shall preclude the use of 413
reports of other incidents of known or suspected abuse or 414
neglect in a civil action or proceeding brought pursuant to 415
division (N) of this section against a person who is alleged to 416
have violated division (A) (1) of this section, provided that any 417
information in a report that would identify the child who is the 418
subject of the report or the maker of the report, if the maker 419
of the report is not the defendant or an agent or employee of 420
the defendant, has been redacted. In a criminal proceeding, the 421
report is admissible in evidence in accordance with the Rules of 422
Evidence and is subject to discovery in accordance with the 423
Rules of Criminal Procedure. 424

(2) (a) Except as provided in division (I) (2) (b) of this 425
section, no person shall permit or encourage the unauthorized 426
dissemination of the contents of any report made under this 427
section. 428

(b) A health care professional that obtains the same 429
information contained in a report made under this section from a 430
source other than the report may disseminate the information, if 431
its dissemination is otherwise permitted by law. 432

(3) A person who knowingly makes or causes another person 433
to make a false report under division (B) of this section that 434
alleges that any person has committed an act or omission that 435
resulted in a child being an abused child or a neglected child 436
is guilty of a violation of section 2921.14 of the Revised Code. 437

(4) If a report is made pursuant to division (A) or (B) of 438

this section and the child who is the subject of the report dies 439
for any reason at any time after the report is made, but before 440
the child attains eighteen years of age, the public children 441
services agency or peace officer to which the report was made or 442
referred, on the request of the child fatality review board or 443
the director of health pursuant to guidelines established under 444
section 3701.70 of the Revised Code, shall submit a summary 445
sheet of information providing a summary of the report to the 446
review board of the county in which the deceased child resided 447
at the time of death or to the director. On the request of the 448
review board or director, the agency or peace officer may, at 449
its discretion, make the report available to the review board or 450
director. If the county served by the public children services 451
agency is also served by a children's advocacy center and the 452
report of alleged sexual abuse of a child or another type of 453
abuse of a child is specified in the memorandum of understanding 454
that creates the center as being within the center's 455
jurisdiction, the agency or center shall perform the duties and 456
functions specified in this division in accordance with the 457
interagency agreement entered into under section 2151.428 of the 458
Revised Code relative to that advocacy center. 459

(5) A public children services agency shall advise a 460
person alleged to have inflicted abuse or neglect on a child who 461
is the subject of a report made pursuant to this section, 462
including a report alleging sexual abuse of a child or another 463
type of abuse of a child referred to a children's advocacy 464
center pursuant to an interagency agreement entered into under 465
section 2151.428 of the Revised Code, in writing of the 466
disposition of the investigation. The agency shall not provide 467
to the person any information that identifies the person who 468
made the report, statements of witnesses, or police or other 469

investigative reports. 470

(J) Any report that is required by this section, other 471
than a report that is made to the state highway patrol as 472
described in section 5120.173 of the Revised Code, shall result 473
in protective services and emergency supportive services being 474
made available by the public children services agency on behalf 475
of the children about whom the report is made, in an effort to 476
prevent further neglect or abuse, to enhance their welfare, and, 477
whenever possible, to preserve the family unit intact. The 478
agency required to provide the services shall be the agency 479
conducting the investigation of the report pursuant to section 480
2151.422 of the Revised Code. 481

(K) (1) Each public children services agency shall prepare 482
a memorandum of understanding that is signed by all of the 483
following: 484

(a) If there is only one juvenile judge in the county, the 485
juvenile judge of the county or the juvenile judge's 486
representative; 487

(b) If there is more than one juvenile judge in the 488
county, a juvenile judge or the juvenile judges' representative 489
selected by the juvenile judges or, if they are unable to do so 490
for any reason, the juvenile judge who is senior in point of 491
service or the senior juvenile judge's representative; 492

(c) The county peace officer; 493

(d) All chief municipal peace officers within the county; 494

(e) Other law enforcement officers handling child abuse 495
and neglect cases in the county; 496

(f) The prosecuting attorney of the county; 497

(g) If the public children services agency is not the 498
county department of job and family services, the county 499
department of job and family services; 500

(h) The county humane society; 501

(i) If the public children services agency participated in 502
the execution of a memorandum of understanding under section 503
2151.426 of the Revised Code establishing a children's advocacy 504
center, each participating member of the children's advocacy 505
center established by the memorandum. 506

(2) A memorandum of understanding shall set forth the 507
normal operating procedure to be employed by all concerned 508
officials in the execution of their respective responsibilities 509
under this section and division (C) of section 2919.21, division 510
(B)(1) of section 2919.22, division (B) of section 2919.23, and 511
section 2919.24 of the Revised Code and shall have as two of its 512
primary goals the elimination of all unnecessary interviews of 513
children who are the subject of reports made pursuant to 514
division (A) or (B) of this section and, when feasible, 515
providing for only one interview of a child who is the subject 516
of any report made pursuant to division (A) or (B) of this 517
section. A failure to follow the procedure set forth in the 518
memorandum by the concerned officials is not grounds for, and 519
shall not result in, the dismissal of any charges or complaint 520
arising from any reported case of abuse or neglect or the 521
suppression of any evidence obtained as a result of any reported 522
child abuse or child neglect and does not give, and shall not be 523
construed as giving, any rights or any grounds for appeal or 524
post-conviction relief to any person. 525

(3) A memorandum of understanding shall include all of the 526
following: 527

(a) The roles and responsibilities for handling emergency	528
and nonemergency cases of abuse and neglect;	529
(b) Standards and procedures to be used in handling and	530
coordinating investigations of reported cases of child abuse and	531
reported cases of child neglect, methods to be used in	532
interviewing the child who is the subject of the report and who	533
allegedly was abused or neglected, and standards and procedures	534
addressing the categories of persons who may interview the child	535
who is the subject of the report and who allegedly was abused or	536
neglected.	537
(4) If a public children services agency participated in	538
the execution of a memorandum of understanding under section	539
2151.426 of the Revised Code establishing a children's advocacy	540
center, the agency shall incorporate the contents of that	541
memorandum in the memorandum prepared pursuant to this section.	542
(5) The clerk of the court of common pleas in the county	543
may sign the memorandum of understanding prepared under division	544
(K) (1) of this section. If the clerk signs the memorandum of	545
understanding, the clerk shall execute all relevant	546
responsibilities as required of officials specified in the	547
memorandum.	548
(L) (1) Except as provided in division (L) (4) or (5) of	549
this section, a person who is required to make a report pursuant	550
to division (A) of this section may make a reasonable number of	551
requests of the public children services agency that receives or	552
is referred the report, or of the children's advocacy center	553
that is referred the report if the report is referred to a	554
children's advocacy center pursuant to an interagency agreement	555
entered into under section 2151.428 of the Revised Code, to be	556
provided with the following information:	557

(a) Whether the agency or center has initiated an investigation of the report;	558 559
(b) Whether the agency or center is continuing to investigate the report;	560 561
(c) Whether the agency or center is otherwise involved with the child who is the subject of the report;	562 563
(d) The general status of the health and safety of the child who is the subject of the report;	564 565
(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.	566 567 568
(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.	569 570 571 572
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.	573 574 575 576 577 578 579 580 581
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	582 583 584 585 586

disclose any confidential information regarding the child who is 587
the subject of the report other than the information described 588
in those divisions. 589

(3) A request made pursuant to division (L)(1) of this 590
section is not a substitute for any report required to be made 591
pursuant to division (A) of this section. 592

(4) If an agency other than the agency that received or 593
was referred the report is conducting the investigation of the 594
report pursuant to section 2151.422 of the Revised Code, the 595
agency conducting the investigation shall comply with the 596
requirements of division (L) of this section. 597

(5) A health care professional who made a report under 598
division (A) of this section, or on whose behalf such a report 599
was made as provided in division (A)(1)(c) of this section, may 600
authorize a person to obtain the information described in 601
division (L)(1) of this section if the person requesting the 602
information is associated with or acting on behalf of the health 603
care professional who provided health care services to the child 604
about whom the report was made. 605

(M) The director of job and family services shall adopt 606
rules in accordance with Chapter 119. of the Revised Code to 607
implement this section. The department of job and family 608
services may enter into a plan of cooperation with any other 609
governmental entity to aid in ensuring that children are 610
protected from abuse and neglect. The department shall make 611
recommendations to the attorney general that the department 612
determines are necessary to protect children from child abuse 613
and child neglect. 614

(N) Whoever violates division (A) of this section is 615

liable for compensatory and exemplary damages to the child who 616
would have been the subject of the report that was not made. A 617
person who brings a civil action or proceeding pursuant to this 618
division against a person who is alleged to have violated 619
division (A) (1) of this section may use in the action or 620
proceeding reports of other incidents of known or suspected 621
abuse or neglect, provided that any information in a report that 622
would identify the child who is the subject of the report or the 623
maker of the report, if the maker is not the defendant or an 624
agent or employee of the defendant, has been redacted. 625

(O) (1) As used in this division: 626

(a) "Out-of-home care" includes a nonchartered nonpublic 627
school if the alleged child abuse or child neglect, or alleged 628
threat of child abuse or child neglect, described in a report 629
received by a public children services agency allegedly occurred 630
in or involved the nonchartered nonpublic school and the alleged 631
perpetrator named in the report holds a certificate, permit, or 632
license issued by the state board of education under section 633
3301.071 or Chapter 3319. of the Revised Code. 634

(b) "Administrator, director, or other chief 635
administrative officer" means the superintendent of the school 636
district if the out-of-home care entity subject to a report made 637
pursuant to this section is a school operated by the district. 638

(2) No later than the end of the day following the day on 639
which a public children services agency receives a report of 640
alleged child abuse or child neglect, or a report of an alleged 641
threat of child abuse or child neglect, that allegedly occurred 642
in or involved an out-of-home care entity, the agency shall 643
provide written notice of the allegations contained in and the 644
person named as the alleged perpetrator in the report to the 645

administrator, director, or other chief administrative officer 646
of the out-of-home care entity that is the subject of the report 647
unless the administrator, director, or other chief 648
administrative officer is named as an alleged perpetrator in the 649
report. If the administrator, director, or other chief 650
administrative officer of an out-of-home care entity is named as 651
an alleged perpetrator in a report of alleged child abuse or 652
child neglect, or a report of an alleged threat of child abuse 653
or child neglect, that allegedly occurred in or involved the 654
out-of-home care entity, the agency shall provide the written 655
notice to the owner or governing board of the out-of-home care 656
entity that is the subject of the report. The agency shall not 657
provide witness statements or police or other investigative 658
reports. 659

(3) No later than three days after the day on which a 660
public children services agency that conducted the investigation 661
as determined pursuant to section 2151.422 of the Revised Code 662
makes a disposition of an investigation involving a report of 663
alleged child abuse or child neglect, or a report of an alleged 664
threat of child abuse or child neglect, that allegedly occurred 665
in or involved an out-of-home care entity, the agency shall send 666
written notice of the disposition of the investigation to the 667
administrator, director, or other chief administrative officer 668
and the owner or governing board of the out-of-home care entity. 669
The agency shall not provide witness statements or police or 670
other investigative reports. 671

(P) As used in this section: 672

(1) "Children's advocacy center" and "sexual abuse of a 673
child" have the same meanings as in section 2151.425 of the 674
Revised Code. 675

(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 706
be compelled to testify on the same subject. 707

The testimonial privilege established under this division 708
does not apply concerning either of the following: 709

(a) A communication between a client in a capital case, as 710
defined in section 2901.02 of the Revised Code, and the client's 711
attorney if the communication is relevant to a subsequent 712
ineffective assistance of counsel claim by the client alleging 713
that the attorney did not effectively represent the client in 714
the case; 715

(b) A communication between a client who has since died 716
and the deceased client's attorney if the communication is 717
relevant to a dispute between parties who claim through that 718
deceased client, regardless of whether the claims are by testate 719
or intestate succession or by inter vivos transaction, and the 720
dispute addresses the competency of the deceased client when the 721
deceased client executed a document that is the basis of the 722
dispute or whether the deceased client was a victim of fraud, 723
undue influence, or duress when the deceased client executed a 724
document that is the basis of the dispute. 725

(2) An attorney, concerning a communication made to the 726
attorney by a client in that relationship or the attorney's 727
advice to a client, except that if the client is an insurance 728
company, the attorney may be compelled to testify, subject to an 729
in camera inspection by a court, about communications made by 730
the client to the attorney or by the attorney to the client that 731
are related to the attorney's aiding or furthering an ongoing or 732
future commission of bad faith by the client, if the party 733
seeking disclosure of the communications has made a prima-facie 734
showing of bad faith, fraud, or criminal misconduct by the 735

client. 736

(B) (1) A physician, advanced practice registered nurse, or 737
dentist concerning a communication made to the physician, 738
advanced practice registered nurse, or dentist by a patient in 739
that relation or the advice of a physician, advanced practice 740
registered nurse, or dentist given to a patient, except as 741
otherwise provided in this division, division (B) (2), and 742
division (B) (3) of this section, and except that, if the patient 743
is deemed by section 2151.421 of the Revised Code to have waived 744
any testimonial privilege under this division, the physician or 745
advanced practice registered nurse may be compelled to testify 746
on the same subject. 747

The testimonial privilege established under this division 748
does not apply, and a physician, advanced practice registered 749
nurse, or dentist may testify or may be compelled to testify, in 750
any of the following circumstances: 751

(a) In any civil action, in accordance with the discovery 752
provisions of the Rules of Civil Procedure in connection with a 753
civil action, or in connection with a claim under Chapter 4123. 754
of the Revised Code, under any of the following circumstances: 755

(i) If the patient or the guardian or other legal 756
representative of the patient gives express consent; 757

(ii) If the patient is deceased, the spouse of the patient 758
or the executor or administrator of the patient's estate gives 759
express consent; 760

(iii) If a medical claim, dental claim, chiropractic 761
claim, or optometric claim, as defined in section 2305.113 of 762
the Revised Code, an action for wrongful death, any other type 763
of civil action, or a claim under Chapter 4123. of the Revised 764

Code is filed by the patient, the personal representative of the 765
estate of the patient if deceased, or the patient's guardian or 766
other legal representative. 767

(b) In any civil action concerning court-ordered treatment 768
or services received by a patient, if the court-ordered 769
treatment or services were ordered as part of a case plan 770
journalized under section 2151.412 of the Revised Code or the 771
court-ordered treatment or services are necessary or relevant to 772
dependency, neglect, or abuse or temporary or permanent custody 773
proceedings under Chapter 2151. of the Revised Code. 774

(c) In any criminal action concerning any test or the 775
results of any test that determines the presence or 776
concentration of alcohol, a drug of abuse, a combination of 777
them, a controlled substance, or a metabolite of a controlled 778
substance in the patient's whole blood, blood serum or plasma, 779
breath, urine, or other bodily substance at any time relevant to 780
the criminal offense in question. 781

(d) In any criminal action against a physician, advanced 782
practice registered nurse, or dentist. In such an action, the 783
testimonial privilege established under this division does not 784
prohibit the admission into evidence, in accordance with the 785
Rules of Evidence, of a patient's medical or dental records or 786
other communications between a patient and the physician, 787
advanced practice registered nurse, or dentist that are related 788
to the action and obtained by subpoena, search warrant, or other 789
lawful means. A court that permits or compels a physician, 790
advanced practice registered nurse, or dentist to testify in 791
such an action or permits the introduction into evidence of 792
patient records or other communications in such an action shall 793
require that appropriate measures be taken to ensure that the 794

confidentiality of any patient named or otherwise identified in 795
the records is maintained. Measures to ensure confidentiality 796
that may be taken by the court include sealing its records or 797
deleting specific information from its records. 798

(e) (i) If the communication was between a patient who has 799
since died and the deceased patient's physician, advanced 800
practice registered nurse, or dentist, the communication is 801
relevant to a dispute between parties who claim through that 802
deceased patient, regardless of whether the claims are by 803
testate or intestate succession or by inter vivos transaction, 804
and the dispute addresses the competency of the deceased patient 805
when the deceased patient executed a document that is the basis 806
of the dispute or whether the deceased patient was a victim of 807
fraud, undue influence, or duress when the deceased patient 808
executed a document that is the basis of the dispute. 809

(ii) If neither the spouse of a patient nor the executor 810
or administrator of that patient's estate gives consent under 811
division (B) (1) (a) (ii) of this section, testimony or the 812
disclosure of the patient's medical records by a physician, 813
advanced practice registered nurse, dentist, or other health 814
care provider under division (B) (1) (e) (i) of this section is a 815
permitted use or disclosure of protected health information, as 816
defined in 45 C.F.R. 160.103, and an authorization or 817
opportunity to be heard shall not be required. 818

(iii) Division (B) (1) (e) (i) of this section does not 819
require a mental health professional to disclose psychotherapy 820
notes, as defined in 45 C.F.R. 164.501. 821

(iv) An interested person who objects to testimony or 822
disclosure under division (B) (1) (e) (i) of this section may seek 823
a protective order pursuant to Civil Rule 26. 824

(v) A person to whom protected health information is 825
disclosed under division (B) (1) (e) (i) of this section shall not 826
use or disclose the protected health information for any purpose 827
other than the litigation or proceeding for which the 828
information was requested and shall return the protected health 829
information to the covered entity or destroy the protected 830
health information, including all copies made, at the conclusion 831
of the litigation or proceeding. 832

(2) (a) If any law enforcement officer submits a written 833
statement to a health care provider that states that an official 834
criminal investigation has begun regarding a specified person or 835
that a criminal action or proceeding has been commenced against 836
a specified person, that requests the provider to supply to the 837
officer copies of any records the provider possesses that 838
pertain to any test or the results of any test administered to 839
the specified person to determine the presence or concentration 840
of alcohol, a drug of abuse, a combination of them, a controlled 841
substance, or a metabolite of a controlled substance in the 842
person's whole blood, blood serum or plasma, breath, or urine at 843
any time relevant to the criminal offense in question, and that 844
conforms to section 2317.022 of the Revised Code, the provider, 845
except to the extent specifically prohibited by any law of this 846
state or of the United States, shall supply to the officer a 847
copy of any of the requested records the provider possesses. If 848
the health care provider does not possess any of the requested 849
records, the provider shall give the officer a written statement 850
that indicates that the provider does not possess any of the 851
requested records. 852

(b) If a health care provider possesses any records of the 853
type described in division (B) (2) (a) of this section regarding 854
the person in question at any time relevant to the criminal 855

offense in question, in lieu of personally testifying as to the 856
results of the test in question, the custodian of the records 857
may submit a certified copy of the records, and, upon its 858
submission, the certified copy is qualified as authentic 859
evidence and may be admitted as evidence in accordance with the 860
Rules of Evidence. Division (A) of section 2317.422 of the 861
Revised Code does not apply to any certified copy of records 862
submitted in accordance with this division. Nothing in this 863
division shall be construed to limit the right of any party to 864
call as a witness the person who administered the test to which 865
the records pertain, the person under whose supervision the test 866
was administered, the custodian of the records, the person who 867
made the records, or the person under whose supervision the 868
records were made. 869

(3) (a) If the testimonial privilege described in division 870
(B) (1) of this section does not apply as provided in division 871
(B) (1) (a) (iii) of this section, a physician, advanced practice 872
registered nurse, or dentist may be compelled to testify or to 873
submit to discovery under the Rules of Civil Procedure only as 874
to a communication made to the physician, advanced practice 875
registered nurse, or dentist by the patient in question in that 876
relation, or the advice of the physician, advanced practice 877
registered nurse, or dentist given to the patient in question, 878
that related causally or historically to physical or mental 879
injuries that are relevant to issues in the medical claim, 880
dental claim, chiropractic claim, or optometric claim, action 881
for wrongful death, other civil action, or claim under Chapter 882
4123. of the Revised Code. 883

(b) If the testimonial privilege described in division (B) 884
(1) of this section does not apply to a physician, advanced 885
practice registered nurse, or dentist as provided in division 886

(B) (1) (c) of this section, the physician, advanced practice 887
registered nurse, or dentist, in lieu of personally testifying 888
as to the results of the test in question, may submit a 889
certified copy of those results, and, upon its submission, the 890
certified copy is qualified as authentic evidence and may be 891
admitted as evidence in accordance with the Rules of Evidence. 892
Division (A) of section 2317.422 of the Revised Code does not 893
apply to any certified copy of results submitted in accordance 894
with this division. Nothing in this division shall be construed 895
to limit the right of any party to call as a witness the person 896
who administered the test in question, the person under whose 897
supervision the test was administered, the custodian of the 898
results of the test, the person who compiled the results, or the 899
person under whose supervision the results were compiled. 900

(4) The testimonial privilege described in division (B) (1) 901
of this section is not waived when a communication is made by a 902
physician or advanced practice registered nurse to a pharmacist 903
or when there is communication between a patient and a 904
pharmacist in furtherance of the physician-patient or advanced 905
practice registered nurse-patient relation. 906

(5) (a) As used in divisions (B) (1) to (4) of this section, 907
"communication" means acquiring, recording, or transmitting any 908
information, in any manner, concerning any facts, opinions, or 909
statements necessary to enable a physician, advanced practice 910
registered nurse, or dentist to diagnose, treat, prescribe, or 911
act for a patient. A "communication" may include, but is not 912
limited to, any medical or dental, office, or hospital 913
communication such as a record, chart, letter, memorandum, 914
laboratory test and results, x-ray, photograph, financial 915
statement, diagnosis, or prognosis. 916

(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. 917
918
919
920

(c) As used in division (B) (5) (b) of this section: 921

(i) "Ambulatory care facility" means a facility that 922
provides medical, diagnostic, or surgical treatment to patients 923
who do not require hospitalization, including a dialysis center, 924
ambulatory surgical facility, cardiac catheterization facility, 925
diagnostic imaging center, extracorporeal shock wave lithotripsy 926
center, home health agency, inpatient hospice, birthing center, 927
radiation therapy center, emergency facility, and an urgent care 928
center. "Ambulatory health care facility" does not include the 929
private office of a physician, advanced practice registered 930
nurse, or dentist, whether the office is for an individual or 931
group practice. 932

(ii) "Emergency facility" means a hospital emergency 933
department or any other facility that provides emergency medical 934
services. 935

(iii) "Health care practitioner" has the same meaning as 936
in section 4769.01 of the Revised Code. 937

(iv) "Hospital" has the same meaning as in section 3727.01 938
of the Revised Code. 939

(v) "Long-term care facility" means a nursing home, 940
residential care facility, or home for the aging, as those terms 941
are defined in section 3721.01 of the Revised Code; a 942
residential facility licensed under section 5119.34 of the 943
Revised Code that provides accommodations, supervision, and 944
personal care services for three to sixteen unrelated adults; a 945

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 975
communicated, to the cleric for a religious counseling purpose 976
in the cleric's professional character. The cleric may testify 977
by express consent of the person making the communication, 978
except when the disclosure of the information is in violation of 979
a sacred trust and except that, if the person voluntarily 980
testifies or is deemed by division (A) (4) (c) of section 2151.421 981
of the Revised Code to have waived any testimonial privilege 982
under this division, the cleric may be compelled to testify on 983
the same subject except when disclosure of the information is in 984
violation of a sacred trust. 985

(2) As used in division (C) of this section: 986

(a) "Cleric" means a member of the clergy, rabbi, priest, 987
Christian Science practitioner, or regularly ordained, 988
accredited, or licensed minister of an established and legally 989
cognizable church, denomination, or sect. 990

(b) "Sacred trust" means a confession or confidential 991
communication made to a cleric in the cleric's ecclesiastical 992
capacity in the course of discipline enjoined by the church to 993
which the cleric belongs, including, but not limited to, the 994
Catholic Church, if both of the following apply: 995

(i) The confession or confidential communication was made 996
directly to the cleric. 997

(ii) The confession or confidential communication was made 998
in the manner and context that places the cleric specifically 999
and strictly under a level of confidentiality that is considered 1000
inviolable by canon law or church doctrine. 1001

(D) Husband or wife, concerning any communication made by 1002
one to the other, or an act done by either in the presence of 1003

the other, during coverture, unless the communication was made, 1004
or act done, in the known presence or hearing of a third person 1005
competent to be a witness; and such rule is the same if the 1006
marital relation has ceased to exist; 1007

(E) A person who assigns a claim or interest, concerning 1008
any matter in respect to which the person would not, if a party, 1009
be permitted to testify; 1010

(F) A person who, if a party, would be restricted under 1011
section 2317.03 of the Revised Code, when the property or thing 1012
is sold or transferred by an executor, administrator, guardian, 1013
trustee, heir, devisee, or legatee, shall be restricted in the 1014
same manner in any action or proceeding concerning the property 1015
or thing. 1016

(G) (1) A school guidance counselor who holds a valid 1017
educator license from the state board of education as provided 1018
for in section 3319.22 of the Revised Code, a person licensed 1019
under Chapter 4757. of the Revised Code as a licensed 1020
professional clinical counselor, licensed professional 1021
counselor, social worker, independent social worker, marriage 1022
and family therapist or independent marriage and family 1023
therapist, or registered under Chapter 4757. of the Revised Code 1024
as a social work assistant concerning a confidential 1025
communication received from a client in that relation or the 1026
person's advice to a client unless any of the following applies: 1027

(a) The communication or advice indicates clear and 1028
present danger to the client or other persons. For the purposes 1029
of this division, cases in which there are indications of 1030
present or past child abuse or neglect of the client constitute 1031
a clear and present danger. 1032

(b) The client gives express consent to the testimony.	1033
(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.	1034 1035 1036
(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.	1037 1038 1039 1040
(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.	1041 1042 1043 1044
(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.	1045 1046 1047 1048
(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.	1049 1050 1051 1052 1053 1054 1055
(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.	1056 1057 1058 1059 1060
(H) A mediator acting under a mediation order issued under	1061

division (A) of section 3109.052 of the Revised Code or 1062
otherwise issued in any proceeding for divorce, dissolution, 1063
legal separation, annulment, or the allocation of parental 1064
rights and responsibilities for the care of children, in any 1065
action or proceeding, other than a criminal, delinquency, child 1066
abuse, child neglect, or dependent child action or proceeding, 1067
that is brought by or against either parent who takes part in 1068
mediation in accordance with the order and that pertains to the 1069
mediation process, to any information discussed or presented in 1070
the mediation process, to the allocation of parental rights and 1071
responsibilities for the care of the parents' children, or to 1072
the awarding of parenting time rights in relation to their 1073
children; 1074

(I) A communications assistant, acting within the scope of 1075
the communication assistant's authority, when providing 1076
telecommunications relay service pursuant to section 4931.06 of 1077
the Revised Code or Title II of the "Communications Act of 1078
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 1079
communication made through a telecommunications relay service. 1080
Nothing in this section shall limit the obligation of a 1081
communications assistant to divulge information or testify when 1082
mandated by federal law or regulation or pursuant to subpoena in 1083
a criminal proceeding. 1084

Nothing in this section shall limit any immunity or 1085
privilege granted under federal law or regulation. 1086

(J) (1) A chiropractor in a civil proceeding concerning a 1087
communication made to the chiropractor by a patient in that 1088
relation or the chiropractor's advice to a patient, except as 1089
otherwise provided in this division. The testimonial privilege 1090
established under this division does not apply, and a 1091

chiropractor may testify or may be compelled to testify, in any 1092
civil action, in accordance with the discovery provisions of the 1093
Rules of Civil Procedure in connection with a civil action, or 1094
in connection with a claim under Chapter 4123. of the Revised 1095
Code, under any of the following circumstances: 1096

(a) If the patient or the guardian or other legal 1097
representative of the patient gives express consent. 1098

(b) If the patient is deceased, the spouse of the patient 1099
or the executor or administrator of the patient's estate gives 1100
express consent. 1101

(c) If a medical claim, dental claim, chiropractic claim, 1102
or optometric claim, as defined in section 2305.113 of the 1103
Revised Code, an action for wrongful death, any other type of 1104
civil action, or a claim under Chapter 4123. of the Revised Code 1105
is filed by the patient, the personal representative of the 1106
estate of the patient if deceased, or the patient's guardian or 1107
other legal representative. 1108

(2) If the testimonial privilege described in division (J) 1109
(1) of this section does not apply as provided in division (J) 1110
(1)(c) of this section, a chiropractor may be compelled to 1111
testify or to submit to discovery under the Rules of Civil 1112
Procedure only as to a communication made to the chiropractor by 1113
the patient in question in that relation, or the chiropractor's 1114
advice to the patient in question, that related causally or 1115
historically to physical or mental injuries that are relevant to 1116
issues in the medical claim, dental claim, chiropractic claim, 1117
or optometric claim, action for wrongful death, other civil 1118
action, or claim under Chapter 4123. of the Revised Code. 1119

(3) The testimonial privilege established under this 1120

division does not apply, and a chiropractor may testify or be 1121
compelled to testify, in any criminal action or administrative 1122
proceeding. 1123

(4) As used in this division, "communication" means 1124
acquiring, recording, or transmitting any information, in any 1125
manner, concerning any facts, opinions, or statements necessary 1126
to enable a chiropractor to diagnose, treat, or act for a 1127
patient. A communication may include, but is not limited to, any 1128
chiropractic, office, or hospital communication such as a 1129
record, chart, letter, memorandum, laboratory test and results, 1130
x-ray, photograph, financial statement, diagnosis, or prognosis. 1131

(K) (1) Except as provided under division (K) (2) of this 1132
section, a critical incident stress management team member 1133
concerning a communication received from an individual who 1134
receives crisis response services from the team member, or the 1135
team member's advice to the individual, during a debriefing 1136
session. 1137

(2) The testimonial privilege established under division 1138
(K) (1) of this section does not apply if any of the following 1139
are true: 1140

(a) The communication or advice indicates clear and 1141
present danger to the individual who receives crisis response 1142
services or to other persons. For purposes of this division, 1143
cases in which there are indications of present or past child 1144
abuse or neglect of the individual constitute a clear and 1145
present danger. 1146

(b) The individual who received crisis response services 1147
gives express consent to the testimony. 1148

(c) If the individual who received crisis response 1149

services is deceased, the surviving spouse or the executor or 1150
administrator of the estate of the deceased individual gives 1151
express consent. 1152

(d) The individual who received crisis response services 1153
voluntarily testifies, in which case the team member may be 1154
compelled to testify on the same subject. 1155

(e) The court in camera determines that the information 1156
communicated by the individual who received crisis response 1157
services is not germane to the relationship between the 1158
individual and the team member. 1159

(f) The communication or advice pertains or is related to 1160
any criminal act. 1161

(3) As used in division (K) of this section: 1162

(a) "Crisis response services" means consultation, risk 1163
assessment, referral, and on-site crisis intervention services 1164
provided by a critical incident stress management team to 1165
individuals affected by crisis or disaster. 1166

(b) "Critical incident stress management team member" or 1167
"team member" means an individual specially trained to provide 1168
crisis response services as a member of an organized community 1169
or local crisis response team that holds membership in the Ohio 1170
critical incident stress management network. 1171

(c) "Debriefing session" means a session at which crisis 1172
response services are rendered by a critical incident stress 1173
management team member during or after a crisis or disaster. 1174

(L) (1) Subject to division (L) (2) of this section and 1175
except as provided in division (L) (3) of this section, an 1176
employee assistance professional, concerning a communication 1177

made to the employee assistance professional by a client in the 1178
employee assistance professional's official capacity as an 1179
employee assistance professional. 1180

(2) Division (L)(1) of this section applies to an employee 1181
assistance professional who meets either or both of the 1182
following requirements: 1183

(a) Is certified by the employee assistance certification 1184
commission to engage in the employee assistance profession; 1185

(b) Has education, training, and experience in all of the 1186
following: 1187

(i) Providing workplace-based services designed to address 1188
employer and employee productivity issues; 1189

(ii) Providing assistance to employees and employees' 1190
dependents in identifying and finding the means to resolve 1191
personal problems that affect the employees or the employees' 1192
performance; 1193

(iii) Identifying and resolving productivity problems 1194
associated with an employee's concerns about any of the 1195
following matters: health, marriage, family, finances, substance 1196
abuse or other addiction, workplace, law, and emotional issues; 1197

(iv) Selecting and evaluating available community 1198
resources; 1199

(v) Making appropriate referrals; 1200

(vi) Local and national employee assistance agreements; 1201

(vii) Client confidentiality. 1202

(3) Division (L)(1) of this section does not apply to any 1203
of the following: 1204

(a) A criminal action or proceeding involving an offense 1205
under sections 2903.01 to 2903.06 of the Revised Code if the 1206
employee assistance professional's disclosure or testimony 1207
relates directly to the facts or immediate circumstances of the 1208
offense; 1209

(b) A communication made by a client to an employee 1210
assistance professional that reveals the contemplation or 1211
commission of a crime or serious, harmful act; 1212

(c) A communication that is made by a client who is an 1213
unemancipated minor or an adult adjudicated to be incompetent 1214
and indicates that the client was the victim of a crime or 1215
abuse; 1216

(d) A civil proceeding to determine an individual's mental 1217
competency or a criminal action in which a plea of not guilty by 1218
reason of insanity is entered; 1219

(e) A civil or criminal malpractice action brought against 1220
the employee assistance professional; 1221

(f) When the employee assistance professional has the 1222
express consent of the client or, if the client is deceased or 1223
disabled, the client's legal representative; 1224

(g) When the testimonial privilege otherwise provided by 1225
division (L)(1) of this section is abrogated under law. 1226

(M)(1) Subject to division (M)(2) of this section and 1227
except as provided in division (M)(3) of this section, a 1228
qualified advocate, in any civil, criminal, administrative, or 1229
education discipline proceeding, concerning either of the 1230
following: 1231

(a) A confidential communication made by a victim to a 1232

qualified advocate or by a qualified advocate to a victim in the 1233
course of safety planning, counseling, support, or advocacy 1234
services provided by the qualified advocate to the victim and 1235
related to the domestic violence, human trafficking, menacing by 1236
stalking, or sexual violence for which the victim sought those 1237
services; 1238

(b) A record created or maintained in the course of the 1239
qualified advocate providing safety planning, counseling, 1240
support, or advocacy services regarding the victim and related 1241
to the domestic violence, human trafficking, menacing by 1242
stalking, or sexual violence for which the victim sought those 1243
services. 1244

(2) If the victim voluntarily reveals the substance of any 1245
qualified advocate-victim communication in a nonprivileged 1246
context or is considered by division (A) (5) (b) of section 1247
2151.421 of the Revised Code to have waived any testimonial 1248
privilege under division (M) (1) of this section, the qualified 1249
advocate may be compelled to testify on the same subject in any 1250
proceeding described in division (M) (1) of this section. 1251

(3) The testimonial privilege established under division 1252
(M) (1) of this section does not apply concerning any of the 1253
following: 1254

(a) A confidential communication between a qualified 1255
advocate and a victim in a civil, criminal, administrative, or 1256
education discipline action or proceeding brought against the 1257
qualified advocate or the qualified victim services program of 1258
which the qualified advocate is an employee or volunteer by the 1259
victim or by any other person in relation to the safety 1260
planning, counseling, support, or advocacy services provided to 1261
the victim, if the confidential communication is relevant to the 1262

<u>defense of the qualified advocate or qualified victim services</u>	1263
<u>program;</u>	1264
<u>(b) A disclosure of aggregate, nonpersonally identifiable</u>	1265
<u>data.</u>	1266
<u>(4) As used in division (M) of this section:</u>	1267
<u>(a) "Aggregate, nonpersonally identifiable data" means all</u>	1268
<u>data from or through which the person to whom the data pertains</u>	1269
<u>cannot be identified.</u>	1270
<u>(b) "Confidential communication" means any written or oral</u>	1271
<u>communication that is intended for the purpose of furthering the</u>	1272
<u>interest of the victim in the course of safety planning,</u>	1273
<u>counseling, support, or advocacy services and is not intended</u>	1274
<u>for further disclosure to another person except any of the</u>	1275
<u>following:</u>	1276
<u>(i) Any person who is present at the time the</u>	1277
<u>communication is made and is present in order to further the</u>	1278
<u>interest of the victim in the course of seeking safety planning,</u>	1279
<u>counseling, support, or advocacy services;</u>	1280
<u>(ii) Any person who is reasonably necessary for the</u>	1281
<u>transmission of the communication;</u>	1282
<u>(iii) Any other persons in the context of group</u>	1283
<u>counseling;</u>	1284
<u>(iv) Any person to whom disclosure is reasonably necessary</u>	1285
<u>to accomplish a purpose for which the victim consulted the</u>	1286
<u>qualified advocate and to whom information is disclosed pursuant</u>	1287
<u>to a voluntary and knowing written informed consent given by the</u>	1288
<u>victim to the qualified advocate.</u>	1289
<u>(c) "Domestic violence" means any of the following:</u>	1290

<u>(i) Any conduct that is described in division (A) (1) (a) of</u>	1291
<u>section 3113.31 of the Revised Code;</u>	1292
<u>(ii) Any conduct that is prohibited in an existing or</u>	1293
<u>former municipal ordinance or law of this state, any other</u>	1294
<u>state, or the United States and that is or was substantially</u>	1295
<u>equivalent to any conduct described in division (M) (4) (c) (i) of</u>	1296
<u>this section.</u>	1297
<u>(d) "Human trafficking" means any of the following:</u>	1298
<u>(i) Any conduct that is described in division (A) of</u>	1299
<u>section 2905.32 of the Revised Code;</u>	1300
<u>(ii) Any conduct that is prohibited in an existing or</u>	1301
<u>former municipal ordinance or law of this state, any other</u>	1302
<u>state, or the United States and that is or was substantially</u>	1303
<u>equivalent to any conduct described in division (M) (4) (d) (i) of</u>	1304
<u>this section.</u>	1305
<u>(e) "Menacing by stalking" means any of the following:</u>	1306
<u>(i) Any conduct that is described in division (A) of</u>	1307
<u>section 2903.211 of the Revised Code;</u>	1308
<u>(ii) Any conduct that is described in division (A) of</u>	1309
<u>section 2903.22 of the Revised Code;</u>	1310
<u>(iii) Any conduct that is prohibited in an existing or</u>	1311
<u>former municipal ordinance or law of this state, any other</u>	1312
<u>state, or the United States and that is or was substantially</u>	1313
<u>equivalent to any conduct described in division (M) (4) (e) (i) or</u>	1314
<u>(ii) of this section.</u>	1315
<u>(f) (i) "Qualified advocate" means any person who has</u>	1316
<u>completed at least forty hours of training in advocacy for</u>	1317
<u>victims of domestic violence, human trafficking, menacing by</u>	1318

stalking, or sexual violence, or has registered for such a 1319
training program and is under the supervision of a qualified 1320
advocate and who is an employee or volunteer of a qualified 1321
victim services program. 1322

(ii) The term "qualified," as used in division (M)(4)(f) 1323
(i) of this section, pertains exclusively to the advocacy 1324
requirements of this section, and does not apply to the 1325
definitions of "victim advocate" in any other section of the 1326
Revised Code. 1327

(g) "Qualified victim services program" means either of 1328
the following: 1329

(i) A nongovernmental, nonprofit, community-based program 1330
that receives moneys administered by a local, state, or federal 1331
government agency; offers safety planning, counseling, support, 1332
or advocacy services to victims of domestic violence, human 1333
trafficking, menacing by stalking, or sexual violence; and 1334
adheres to the standards set forth by the federally recognized 1335
state sexual violence or state domestic violence coalitions; 1336

(ii) A rape crisis program. 1337

(h) "Rape crisis program" has the same meaning as in 1338
division (A)(1)(a) or (c) of section 109.921 of the Revised 1339
Code. 1340

(i) "Sexual violence" means any of the following: 1341

(i) Any conduct that would be a violation of any 1342
prohibition in Chapter 2907. of the Revised Code; 1343

(ii) Any conduct that would constitute a sexually oriented 1344
offense as defined in section 2950.01 of the Revised Code; 1345

(iii) Any conduct that is prohibited in an existing or 1346

former municipal ordinance or law of this state, any other 1347
state, or the United States and that is or was substantially 1348
equivalent to any conduct described in division (M) (4) (i) (i) or 1349
(ii) of this section. 1350

(j) "Victim" means a person who seeks safety planning, 1351
counseling, support, or advocacy services at a qualified victim 1352
services program if those services are related to domestic 1353
violence, human trafficking, menacing by stalking, or sexual 1354
violence against the person. 1355

Sec. 2921.22. (A) (1) Except as provided in division (A) (2) 1356
of this section, no person, knowing that a felony has been or is 1357
being committed, shall knowingly fail to report such information 1358
to law enforcement authorities. 1359

(2) No person, knowing that a violation of division (B) of 1360
section 2913.04 of the Revised Code has been, or is being 1361
committed or that the person has received information derived 1362
from such a violation, shall knowingly fail to report the 1363
violation to law enforcement authorities. 1364

(B) Except for conditions that are within the scope of 1365
division (E) of this section, no person giving aid to a sick or 1366
injured person shall negligently fail to report to law 1367
enforcement authorities any gunshot or stab wound treated or 1368
observed by the person, or any serious physical harm to persons 1369
that the person knows or has reasonable cause to believe 1370
resulted from an offense of violence. 1371

(C) No person who discovers the body or acquires the first 1372
knowledge of the death of a person shall fail to report the 1373
death immediately to a physician or advanced practice registered 1374
nurse whom the person knows to be treating the deceased for a 1375

condition from which death at such time would not be unexpected, 1376
or to a law enforcement officer, an ambulance service, an 1377
emergency squad, or the coroner in a political subdivision in 1378
which the body is discovered, the death is believed to have 1379
occurred, or knowledge concerning the death is obtained. For 1380
purposes of this division, "advanced practice registered nurse" 1381
does not include a certified registered nurse anesthetist. 1382

(D) No person shall fail to provide upon request of the 1383
person to whom a report required by division (C) of this section 1384
was made, or to any law enforcement officer who has reasonable 1385
cause to assert the authority to investigate the circumstances 1386
surrounding the death, any facts within the person's knowledge 1387
that may have a bearing on the investigation of the death. 1388

(E) (1) As used in this division, "burn injury" means any 1389
of the following: 1390

(a) Second or third degree burns; 1391

(b) Any burns to the upper respiratory tract or laryngeal 1392
edema due to the inhalation of superheated air; 1393

(c) Any burn injury or wound that may result in death; 1394

(d) Any physical harm to persons caused by or as the 1395
result of the use of fireworks, novelties and trick noisemakers, 1396
and wire sparklers, as each is defined by section 3743.01 of the 1397
Revised Code. 1398

(2) No physician, nurse, physician assistant, or limited 1399
practitioner who, outside a hospital, sanitarium, or other 1400
medical facility, attends or treats a person who has sustained a 1401
burn injury that is inflicted by an explosion or other 1402
incendiary device or that shows evidence of having been 1403
inflicted in a violent, malicious, or criminal manner shall fail 1404

to report the burn injury immediately to the local arson, or 1405
fire and explosion investigation, bureau, if there is a bureau 1406
of this type in the jurisdiction in which the person is attended 1407
or treated, or otherwise to local law enforcement authorities. 1408

(3) No manager, superintendent, or other person in charge 1409
of a hospital, sanitarium, or other medical facility in which a 1410
person is attended or treated for any burn injury that is 1411
inflicted by an explosion or other incendiary device or that 1412
shows evidence of having been inflicted in a violent, malicious, 1413
or criminal manner shall fail to report the burn injury 1414
immediately to the local arson, or fire and explosion 1415
investigation, bureau, if there is a bureau of this type in the 1416
jurisdiction in which the person is attended or treated, or 1417
otherwise to local law enforcement authorities. 1418

(4) No person who is required to report any burn injury 1419
under division (E) (2) or (3) of this section shall fail to file, 1420
within three working days after attending or treating the 1421
victim, a written report of the burn injury with the office of 1422
the state fire marshal. The report shall comply with the uniform 1423
standard developed by the state fire marshal pursuant to 1424
division (A) (15) of section 3737.22 of the Revised Code. 1425

(5) Anyone participating in the making of reports under 1426
division (E) of this section or anyone participating in a 1427
judicial proceeding resulting from the reports is immune from 1428
any civil or criminal liability that otherwise might be incurred 1429
or imposed as a result of such actions. Notwithstanding section 1430
4731.22 of the Revised Code, the physician-patient relationship 1431
or advanced practice registered nurse-patient relationship is 1432
not a ground for excluding evidence regarding a person's burn 1433
injury or the cause of the burn injury in any judicial 1434

proceeding resulting from a report submitted under division (E) 1435
of this section. 1436

(F) (1) Any doctor of medicine or osteopathic medicine, 1437
hospital intern or resident, nurse, psychologist, social worker, 1438
independent social worker, social work assistant, licensed 1439
professional clinical counselor, licensed professional 1440
counselor, independent marriage and family therapist, or 1441
marriage and family therapist who knows or has reasonable cause 1442
to believe that a patient or client has been the victim of 1443
domestic violence, as defined in section 3113.31 of the Revised 1444
Code, shall note that knowledge or belief and the basis for it 1445
in the patient's or client's records. 1446

(2) Notwithstanding section 4731.22 of the Revised Code, 1447
the physician-patient privilege or advanced practice registered 1448
nurse-patient privilege shall not be a ground for excluding any 1449
information regarding the report containing the knowledge or 1450
belief noted under division (F) (1) of this section, and the 1451
information may be admitted as evidence in accordance with the 1452
Rules of Evidence. 1453

(G) Divisions (A) and (D) of this section do not require 1454
disclosure of information, when any of the following applies: 1455

(1) The information is privileged by reason of the 1456
relationship between attorney and client; physician and patient; 1457
advanced practice registered nurse and patient; licensed 1458
psychologist or licensed school psychologist and client; 1459
licensed professional clinical counselor, licensed professional 1460
counselor, independent social worker, social worker, independent 1461
marriage and family therapist, or marriage and family therapist 1462
and client; member of the clergy, rabbi, minister, or priest and 1463
any person communicating information confidentially to the 1464

member of the clergy, rabbi, minister, or priest for a religious 1465
counseling purpose of a professional character; husband and 1466
wife; ~~or~~ a communications assistant and those who are a party to 1467
a telecommunications relay service call; or a qualified advocate 1468
and a victim of domestic violence, human trafficking, menacing 1469
by stalking, or sexual violence. 1470

(2) The information would tend to incriminate a member of 1471
the actor's immediate family. 1472

(3) Disclosure of the information would amount to 1473
revealing a news source, privileged under section 2739.04 or 1474
2739.12 of the Revised Code. 1475

(4) Disclosure of the information would amount to 1476
disclosure by a member of the ordained clergy of an organized 1477
religious body of a confidential communication made to that 1478
member of the clergy in that member's capacity as a member of 1479
the clergy by a person seeking the aid or counsel of that member 1480
of the clergy. 1481

(5) Disclosure would amount to revealing information 1482
acquired by the actor in the course of the actor's duties in 1483
connection with a bona fide program of treatment or services for 1484
drug dependent persons or persons in danger of drug dependence, 1485
which program is maintained or conducted by a hospital, clinic, 1486
person, agency, or community addiction services provider whose 1487
alcohol and drug addiction services are certified pursuant to 1488
section 5119.36 of the Revised Code. 1489

(6) Disclosure would amount to revealing information 1490
acquired by the actor in the course of the actor's duties in 1491
connection with a bona fide program for providing counseling 1492
services to victims of crimes that are violations of section 1493

2907.02 or 2907.05 of the Revised Code or to victims of 1494
felonious sexual penetration in violation of former section 1495
2907.12 of the Revised Code. As used in this division, 1496
"counseling services" include services provided in an informal 1497
setting by a person who, by education or experience, is 1498
competent to provide those services. 1499

(7) (a) Disclosure would amount to revealing information 1500
acquired by the actor in the course of the actor's duties in a 1501
designated victim advocacy office, women's center, health 1502
center, or other program to which all of the following apply: 1503

(i) The office, center, or program provides safety 1504
planning, counseling, support, or advocacy services to victims 1505
of domestic violence, human trafficking, menacing by stalking, 1506
or sexual violence. 1507

(ii) The office, center, or program employs or otherwise 1508
engages one or more qualified advocates. 1509

(iii) The office, center, or program has a memorandum of 1510
understanding with a qualified victim services program. 1511

(b) As used in divisions (G) (1) and (7) of this section: 1512

(i) "Domestic violence," "human trafficking," "menacing by 1513
stalking," "qualified victim services program," "sexual 1514
violence," and "victim" have the same meanings as in division 1515
(M) of section 2317.02 of the Revised Code. 1516

(ii) "Qualified advocate" means any person who has 1517
completed at least forty hours of training in advocacy for 1518
victims of domestic violence, human trafficking, menacing by 1519
stalking, or sexual violence, and who is an employee or 1520
volunteer of a designated victim advocacy office, women's 1521
center, health center, or other program described in division 1522

<u>(G) (7) (a) of this section.</u>	1523
(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.	1524 1525 1526
(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.	1527 1528 1529 1530 1531
(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.	1532 1533 1534
(K) (1) Whoever negligently violates division (E) of this section is guilty of a minor misdemeanor.	1535 1536
(2) Whoever knowingly violates division (E) of this section is guilty of a misdemeanor of the second degree.	1537 1538
(L) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.	1539 1540 1541
Section 2. That existing sections 2151.421, 2317.02, and 2921.22 of the Revised Code are hereby repealed.	1542 1543
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	1544 1545 1546 1547 1548 1549 1550

the section in effect prior to the effective date of the section	1551
as presented in this act.	1552