

As Reported by the Senate Judiciary Committee

123rd General Assembly

Regular Session

1999-2000

Sub. H. B. No. 412

**Representatives Salerno, Ford, Goodman, D. Miller, O'Brien, Patton,
Schuring, Sullivan, Thomas, Tiberi, Womer Benjamin, Willamowski, Wilson,
Allen, Ogg, Roberts, Bender, Distel, Verich, Redfern, Terwilleger, Metzger,
Harris, Britton, Corbin
Senator Fingerhut**

A B I L L

To amend sections 2151.141, 2903.13, 2903.21, 1
2903.211, 2903.22, and 5153.163 and to enact 2
section 2151.142 of the Revised Code to increase 3
the penalties for assaulting or menacing personnel 4
of public children services agencies and private 5
child placing agencies, to declare the residential 6
addresses of those personnel to be confidential 7
information that is not subject to disclosure by 8
specified persons or obtainable as a part of a 9
public record, except by journalists in specified 10
circumstances, and to permit a public children 11
services agency to use state funds for an adopted 12
child's residential treatment if that child's 13
handicap or condition requires expenses beyond the 14
adoptive parent's economic resources. 15

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

Section 1. That sections 2151.141, 2903.13, 2903.21, 16
2903.211, 2903.22, and 5153.163 be amended and section 2151.142 of 17

the Revised Code be enacted to read as follows: 18

Sec. 2151.141. (A) If a complaint filed with respect to a 19
child pursuant to section 2151.27 of the Revised Code alleges that 20
a child is an abused, neglected, or dependent child, any 21
individual or entity that is listed in divisions (D)(1)(a) to (k) 22
of section 2151.14 of the Revised Code and that is investigating 23
whether the child is an abused, neglected, or dependent child, has 24
custody of the child, is preparing a social history for the child, 25
or is providing any services for the child may request any board 26
of education, governing body of a chartered nonpublic school, 27
public children services agency, private child placing agency, 28
probation department, law enforcement agency, or prosecuting 29
attorney that has any records related to the child to provide the 30
individual or entity with a copy of the records. The request shall 31
be in writing, describe the type of records requested, explain the 32
need for the records, be accompanied by a copy of the complaint, 33
and describe the relationship of the requesting individual or 34
entity to the child. The individual or entity shall provide a copy 35
of the request to the child in question, the attorney or guardian 36
ad litem of the child, and the parent, guardian, or custodian of 37
the child. 38

(B)(1) Any board of education, governing body of a chartered 39
nonpublic school, public children services agency, private child 40
placing agency, probation department, law enforcement agency, or 41
prosecuting attorney that has any records related to a child who 42
is the subject of a complaint as described in division (A) of this 43
section and that receives a request for a copy of the records 44
pursuant to division (A) of this section shall comply with the 45
request, unless the individual or entity determines that it is 46
unable to do so because it is prohibited by law from complying 47
with the request, the request does not comply with division (A) of 48

this section, or a complaint as described in division (A) of this section has not been filed with respect to the child who is the subject of the requested records. If the individual or entity determines that it is unable to comply with the request, it shall file a motion with the court in which the complaint as described in division (A) of this section was filed or was alleged to have been filed requesting the court to determine the extent to which it is required to comply with the request for records. Upon the filing of the motion, the court immediately shall hold a hearing on the motion, determine the extent to which the movant is required to comply with the request for records, and issue findings of fact and conclusions of law in support of its determination. The determination of the court shall be final. If the court determines that the movant is required to comply with the request for records, it shall identify the specific records that must be supplied to the individual or entity that requested them.

(2) In addition to or in lieu of the motion described in division (B)(1) of this section, a law enforcement agency or prosecuting attorney that receives a request for a copy of records pursuant to division (A) of this section may file a motion for a protective order as described in this division with the court in which the complaint as described in division (A) of this section was filed or alleged to have been filed. Upon the filing of ~~such~~ a motion of that nature, the court shall conduct a hearing on the motion. If at the hearing the law enforcement agency or prosecuting attorney demonstrates that any of the following applies and if, after considering the purposes for which the records were requested pursuant to division (A) of this section, the best interest of the child, and any demonstrated need to prevent specific information in the records from being disclosed, the court determines that the issuance of a protective order is

49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80

necessary, then the court shall issue a protective order that 81
appropriately limits the disclosure of one or more specified 82
records or specified information in one or more specified records: 83

(a) The records or information in the records relate to a 84
case in which the child is alleged to be a delinquent child or a 85
case in which a child is bound over for trial as an adult pursuant 86
to section 2151.26 of the Revised Code and Juvenile Rule 30, and 87
the adjudication hearing in the case, the trial in the case, or 88
other disposition of the case has not been concluded. 89

(b) The records in question, or the records containing the 90
information in question, are confidential law enforcement 91
investigatory records, as defined in section 149.43 of the Revised 92
Code. 93

(c) The records or information in the records relate to a 94
case in which the child is or was alleged to be a delinquent child 95
or to a case in which a child is or was bound over for trial as an 96
adult pursuant to section 2151.26 of the Revised Code and Juvenile 97
Rule 30; another case is pending against any child or any adult in 98
which the child is alleged to be a delinquent child, the child is 99
so bound over for trial as an adult, or the adult is alleged to be 100
a criminal offender; the allegations in the case to which the 101
records or information relate and the allegations in the other 102
case are based on the same act or transaction, are based on two or 103
more connected transactions or constitute parts of a common scheme 104
or plan, or are part of a course of criminal conduct; and the 105
adjudication hearing in, trial in, or other disposition of the 106
other case has not been concluded. 107

(C) If an individual or entity is required to provide copies 108
of records pursuant to this section, the individual or entity may 109
charge a fee for the copies that does not exceed the cost of 110
supplying them. 111

(D) This section ~~shall not be construed to require,~~ 112
~~authorize, or permit, and~~ does not require, authorize, or permit, 113
the dissemination of any records or any information contained in 114
any records if the dissemination of the records or information 115
generally is prohibited by ~~any provision~~ section 2151.142 or 116
another section of the Revised Code and a waiver as described in 117
division (B)(1) of section 2151.142 of the Revised Code or a 118
specific provision of the Revised Code does not specifically 119
authorize or permit the dissemination of the records or 120
information pursuant to this section. 121

Sec. 2151.142. (A) As used in this section, "public record" 122
and "journalist" have the same meanings as in section 149.43 of 123
the Revised Code. 124

(B) BOTH OF THE FOLLOWING APPLY TO the residential address of 125
EACH officer OR EMPLOYEE of a public children services agency or A 126
private child placing agency who performS official 127
responsibilities or duties described in section 2151.14, 2151.141, 128
2151.33, 2151.353, 2151.412, 2151.413, 2151.414, 2151.415, 129
2151.416, 2151.417, or 2151.421 or another section of the Revised 130
Code AND TO THE RESIDENTIAL ADDRESS OF PERSONS RELATED TO THAT 131
OFFICER OR EMPLOYEE BY CONSANGUINITY OR AFFINITY: 132

(1) other officerS AND employees of A public children 133
services agency, private child placing agency, juvenile court, OR 134
LAW ENFORCEMENT AGENCY SHALL CONSIDER THOSE RESIDENTIAL ADDRESSES 135
to be confidential information. The OFFICER OR EMPLOYEE OF THE 136
PUBLIC CHILDREN SERVICES AGENCY OR PRIVATE CHILD PLACING AGENCY 137
MAY WAIVE THE CONFIDENTIALITY OF THOSE RESIDENTIAL ADDRESSES BY 138
GIVING EXPRESS PERMISSION FOR THEIR DISCLOSURE TO OTHER officerS 139
OR employees of A public children services agency, private child 140
placing agency, juvenile court, OR LAW ENFORCEMENT AGENCY. 141

(2) TO THE EXTENT THAT THOSE RESIDENTIAL ADDRESSES ARE 142

CONTAINED IN PUBLIC RECORDS KEPT BY A PUBLIC CHILDREN SERVICES 143
AGENCY, PRIVATE CHILD PLACING AGENCY, JUVENILE COURT, OR LAW 144
ENFORCEMENT AGENCY, THEY SHALL NOT BE CONSIDERED TO BE INFORMATION 145
THAT IS SUBJECT TO INSPECTION OR COPYING AS PART OF A public 146
record UNDER SECTION 149.43 of the Revised Code. 147

(C) Except as provided in division (D) of this section, in 148
THE ABSENCE OF A WAIVER AS DESCRIBED IN DIVISION (B)(1) OF THIS 149
SECTION, NO officer or employee of A public children services 150
agency, private child placing agency, juvenile court, OR LAW 151
ENFORCEMENT AGENCY SHALL DISCLOSE THE RESIDENTIAL ADDRESS OF AN 152
OFFICER OR EMPLOYEE OF A PUBLIC CHILDREN SERVICES AGENCY OR 153
PRIVATE CHILD PLACING AGENCY, OR THE RESIDENTIAL ADDRESS OF A 154
PERSON RELATED TO THAT OFFICER OR EMPLOYEE BY CONSANGUINITY OR 155
AFFINITY, THAT IS CONFIDENTIAL INFORMATION UNDER DIVISION (B)(1) 156
OF THIS SECTION to any person, when the disclosing officer or 157
employee knows THAT the PERSON IS OR MAY BE A SUBJECT OF AN 158
INVESTIGATION, INTERVIEW, EXAMINATION, CRIMINAL CASE, OTHER CASE, 159
OR OTHER MATTER WITH WHICH THE OFFICER OR EMPLOYEE to whom the 160
residential address relates CURRENTLY IS OR HAS BEEN ASSOCIATED. 161

(D) If, on or after the effective date of this SECTION, a 162
journalist requests a public children services agency, private 163
child placing agency, juvenile court, or law enforcement agency to 164
disclose a residential address that is confidential information 165
under division (B)(1) of this section, the agency or juvenile 166
court shall disclose to the journalist the residential address if 167
all of the following apply: 168

(1) The request is in writing, is signed by the journalist, 169
includes the journalist's name and title, and INCLUDES the name 170
and address of the journalist's employer. 171

(2) The request states that disclosure of the residential 172
address would be in the public interest. 173

(3) The request adequately identifies the person whose residential address is requested. 174
175

(4) The public children services agency, private child placing agency, juvenile court, or law enforcement agency receiving the request is ONE OF THE FOLLOWING: 176
177
178

(a) the agency or juvenile court with which the official in question serves or with which the employee in question is employed; 179
180
181

(b) the agency or juvenile court that has custody of the records of the agency with which the official in question serves or with which the employee in question is employed. 182
183
184

Sec. 2903.13. (A) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn. 185
186

(B) No person shall recklessly cause serious physical harm to another or to another's unborn. 187
188

(C) Whoever violates this section is guilty of assault. 189
Except as otherwise provided in division (C)(1), (2), ~~or (3)~~, (4),
or (5) of this section, assault is a misdemeanor of the first 190
degree. 191
192

(1) Except as otherwise provided in this division, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, assault is a felony of the fourth degree. If the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, if the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.11 or 2903.16 of the Revised Code, and if in relation to the previous conviction the offender was a caretaker and the victim was a functionally impaired person under the offender's care, assault is a felony of the third degree. 193
194
195
196
197
198
199
200
201
202
203

(2) If the offense is committed in any of the following 204
circumstances, assault is a felony of the fifth degree: 205

(a) The offense occurs in or on the grounds of a state 206
correctional institution or an institution of the department of 207
youth services, the victim of the offense is an employee of the 208
department of rehabilitation and correction, the department of 209
youth services, or a probation department or is on the premises of 210
the particular institution for business purposes or as a visitor, 211
and the offense is committed by a person incarcerated in the state 212
correctional institution, by a person institutionalized in the 213
department of youth services institution pursuant to a commitment 214
to the department of youth services, by a probationer or parolee, 215
by an offender under transitional control, under a community 216
control sanction, or on an escorted visit, by a person under 217
post-release control, or by an offender under any other type of 218
supervision by a government agency. 219

(b) The offense occurs in or on the grounds of a local 220
correctional facility, the victim of the offense is an employee of 221
the local correctional facility or a probation department or is on 222
the premises of the facility for business purposes or as a 223
visitor, and the offense is committed by a person who is under 224
custody in the facility subsequent to the person's arrest for any 225
crime or delinquent act, subsequent to the person's being charged 226
with or convicted of any crime, or subsequent to the person's 227
being alleged to be or adjudicated a delinquent child. 228

(c) The offense occurs off the grounds of a state 229
correctional institution and off the grounds of an institution of 230
the department of youth services, the victim of the offense is an 231
employee of the department of rehabilitation and correction, the 232
department of youth services, or a probation department, the 233
offense occurs during the employee's official work hours and while 234
the employee is engaged in official work responsibilities, and the 235

offense is committed by a person incarcerated in a state 236
correctional institution or institutionalized in the department of 237
youth services who temporarily is outside of the institution for 238
any purpose, by a probationer or parolee, by an offender under 239
transitional control, under a community control sanction, or on an 240
escorted visit, by a person under post-release control, or by an 241
offender under any other type of supervision by a government 242
agency. 243

(d) The offense occurs off the grounds of a local 244
correctional facility, the victim of the offense is an employee of 245
the local correctional facility or a probation department, the 246
offense occurs during the employee's official work hours and while 247
the employee is engaged in official work responsibilities, and the 248
offense is committed by a person who is under custody in the 249
facility subsequent to the person's arrest for any crime or 250
delinquent act, subsequent to the person being charged with or 251
convicted of any crime, or subsequent to the person being alleged 252
to be or adjudicated a delinquent child and who temporarily is 253
outside of the facility for any purpose or by a probationer or 254
parolee, by an offender under transitional control, under a 255
community control sanction, or on an escorted visit, by a person 256
under post-release control, or by an offender under any other type 257
of supervision by a government agency. 258

(e) The victim of the offense is a school teacher or 259
administrator or a school bus operator, and the offense occurs in 260
a school, on school premises, in a school building, on a school 261
bus, or while the victim is outside of school premises or a school 262
bus and is engaged in duties or official responsibilities 263
associated with the victim's employment or position as a school 264
teacher or administrator or a school bus operator, including, but 265
not limited to, driving, accompanying, or chaperoning students at 266
or on class or field trips, athletic events, or other school 267

extracurricular activities or functions outside of school 268
premises. 269

(3) If the victim of the offense is a peace officer, a 270
firefighter, or a person performing emergency medical service, 271
while in the performance of their official duties, assault is a 272
felony of the fourth degree. 273

(4) If the victim of the offense is a peace officer and if 274
the victim suffered serious physical harm as a result of the 275
commission of the offense, assault is a felony of the fourth 276
degree, and the court, pursuant to division (F) of section 2929.13 277
of the Revised Code, shall impose as a mandatory prison term one 278
of the prison terms prescribed for a felony of the fourth degree 279
that is at least twelve months in duration. 280

(5) If the victim of the offense is an officer or employee of 281
a public children services agency or a private child placing 282
agency and the offense relates to the officer's or employee's 283
performance or anticipated performance of official 284
responsibilities or duties, assault is either a felony of the 285
fifth degree or, if the offender previously has been convicted of 286
or pleaded guilty to an offense of violence, the victim of that 287
prior offense was an officer or employee of a public children 288
services agency or private child placing agency, and that prior 289
offense related to the officer's or employee's performance or 290
anticipated performance of official responsibilities or duties, a 291
felony of the fourth degree. 292

(D) As used in this section: 293

~~a~~(1) "Peace officer" has the same meaning as in section 294
2935.01 of the Revised Code. 295

~~b~~(2) "Firefighter" has the same meaning as in section 296
3937.41 of the Revised Code. 297

~~(e)~~(3) "Emergency medical service" has the same meaning as in 298
section 4765.01 of the Revised Code. 299

~~(d)~~(4) "Local correctional facility" means a county, 300
multicounty, municipal, municipal-county, or multicounty-municipal 301
jail or workhouse, a minimum security jail established under 302
section 341.23 or 753.21 of the Revised Code, or another county, 303
multicounty, municipal, municipal-county, or multicounty-municipal 304
facility used for the custody of persons arrested for any crime or 305
delinquent act, persons charged with or convicted of any crime, or 306
persons alleged to be or adjudicated a delinquent child. 307

~~(e)~~(5) "Employee of a local correctional facility" means a 308
person who is an employee of the political subdivision or of one 309
or more of the affiliated political subdivisions that operates the 310
local correctional facility and who operates or assists in the 311
operation of the facility. 312

~~(f)~~(6) "School teacher or administrator" means either of the 313
following: 314

~~(i)~~(a) A person who is employed in the public schools of the 315
state under a contract described in section 3319.08 of the Revised 316
Code in a position in which the person is required to have a 317
certificate issued pursuant to sections 3319.22 to 3319.311 of the 318
Revised Code. 319

~~(ii)~~(b) A person who is employed by a nonpublic school for 320
which the state board of education prescribes minimum standards 321
under section 3301.07 of the Revised Code and who is certificated 322
in accordance with section 3301.071 of the Revised Code. 323

~~(g)~~(7) "Community control sanction" has the same meaning as 324
in section 2929.01 of the Revised Code. 325

~~(h)~~(8) "Escorted visit" means an escorted visit granted under 326
section 2967.27 of the Revised Code. 327

(i)(9) "Post-release control" and "transitional control" have 328
the same meanings as in section 2967.01 of the Revised Code. 329

Sec. 2903.21. (A) No person shall knowingly cause another to 330
believe that the offender will cause serious physical harm to the 331
person or property of ~~such~~ the other person, ~~such~~ the other 332
person's unborn, or a member of the other person's immediate 333
family. 334

(B) Whoever violates this section is guilty of aggravated 335
menacing~~7~~. Except as otherwise provided in this division, 336
aggravated menacing is a misdemeanor of the first degree. If the 337
victim of the offense is an officer or employee of a public 338
children services agency or a private child placing agency and the 339
offense RELATES TO THE OFFICER'S OR EMPLOYEE'S PERFORMANCE OR 340
ANTICIPATED performance of official responsibilities or duties, 341
aggravated menacing is a felony of the fifth degree OR, if the 342
offender previously HAS BEEN CONVICTED OF OR PLEADED GUILTY TO AN 343
OFFENSE OF VIOLENCE, THE VICTIM OF THAT PRIOR OFFENSE WAS AN 344
OFFICER OR EMPLOYEE OF A PUBLIC CHILDREN SERVICES AGENCY OR 345
PRIVATE CHILD PLACING AGENCY, AND THAT PRIOR OFFENSE RELATED TO 346
THE OFFICER'S OR EMPLOYEE'S PERFORMANCE OR ANTICIPATED PERFORMANCE 347
OF OFFICIAL RESPONSIBILITIES OR DUTIES, a felony of the fourth 348
degree. 349

Sec. 2903.211. (A) No person by engaging in a pattern of 350
conduct shall knowingly cause another to believe that the offender 351
will cause physical harm to the other person or cause mental 352
distress to the other person. 353

(B) Whoever violates this section is guilty of menacing by 354
stalking. 355

(1) Except as otherwise provided in ~~division~~ divisions (B)(2) 356
and (3) of this section, menacing by stalking is a misdemeanor of 357

the first degree. 358

(2) Menacing by stalking is a felony of the fourth degree if 359
any of the following applies: 360

(a) The offender previously has been convicted of or pleaded 361
guilty to a violation of this section or a violation of section 362
2911.211 of the Revised Code. 363

(b) In committing the offense, the offender made a threat of 364
physical harm to or against the victim. 365

(c) In committing the offense, the offender trespassed on the 366
land or premises where the victim lives, is employed, or attends 367
school. 368

(d) The victim of the offense is a minor. 369

(e) The offender has a history of violence toward the victim 370
or any other person or a history of other violent acts toward the 371
victim or any other person. 372

(f) While committing the offense, the offender had a deadly 373
weapon on or about the offender's person or under the offender's 374
control. 375

(g) At the time of the commission of the offense, the 376
offender was the subject of a protection order issued under 377
section 2903.213 or 2903.214 of the Revised Code, regardless of 378
whether the person to be protected under the order is the victim 379
of the offense or another person. 380

(h) In committing the offense, the offender caused serious 381
physical harm to the premises at which the victim resides, to the 382
real property on which that premises is located, or to any 383
personal property located on that premises. 384

(i) Prior to committing the offense, the offender had been 385
determined to represent a substantial risk of physical harm to 386
others as manifested by evidence of then-recent homicidal or other 387

violent behavior, evidence of then-recent threats that placed 388
another in reasonable fear of violent behavior and serious 389
physical harm, or other evidence of then-present dangerousness. 390

(3) If the victim of the offense is an officer or employee of 391
a public children services agency or a private child placing 392
agency and the offense relates to the officer's or employee's 393
performance or anticipated performance of official 394
responsibilities or duties, menacing by stalking is either a 395
felony of the fifth degree or, if the offender previously has been 396
convicted of or pleaded guilty to an offense of violence, the 397
victim of that prior offense was an officer or employee of a 398
public children services agency or private child placing agency, 399
and that prior offense related to the officer's or employee's 400
performance or anticipated performance of official 401
responsibilities or duties, a felony of the fourth degree. 402

(C) Section 2919.271 of the Revised Code applies in relation 403
to a defendant charged with a violation of this section. 404

(D) As used in this section: 405

(1) "Pattern of conduct" means two or more actions or 406
incidents closely related in time, whether or not there has been a 407
prior conviction based on any of those actions or incidents. 408
Actions or incidents that prevent, obstruct, or delay the 409
performance by a public official, firefighter, rescuer, or 410
emergency medical services person of any authorized act within the 411
public official's, firefighter's, rescuer's, or emergency medical 412
services person's official capacity may constitute a "pattern of 413
conduct." 414

(2) "Mental distress" means any mental illness or condition 415
that involves some temporary substantial incapacity or mental 416
illness or condition that would normally require psychiatric 417
treatment. 418

(3) "Emergency medical services person" is the singular of 419
"emergency medical services personnel" as defined in section 420
2133.21 of the Revised Code. 421

(4) "Public official" has the same meaning as in section 422
2921.01 of the Revised Code. 423

Sec. 2903.22. (A) No person shall knowingly cause another to 424
believe that the offender will cause physical harm to the person 425
or property of ~~such~~ the other person, ~~such~~ the other person's 426
unborn, or a member of the other person's immediate family. 427
428

(B) Whoever violates this section is guilty of menacing~~7.~~ 429
Except as otherwise provided in this division, menacing is a 430
misdemeanor of the fourth degree. If the victim of the offense is 431
an officer or employee of a public children services agency or a 432
private child placing agency and the offense RELATES TO THE 433
OFFICER'S OR EMPLOYEE'S PERFORMANCE OR ANTICIPATED performance of 434
official responsibilities or duties, menacing is a misdemeanor of 435
the first degree OR, if the offender previously HAS BEEN CONVICTED 436
OF OR PLEADED GUILTY TO AN OFFENSE OF VIOLENCE, THE VICTIM OF THAT 437
PRIOR OFFENSE WAS AN OFFICER OR EMPLOYEE OF A PUBLIC CHILDREN 438
SERVICES AGENCY OR PRIVATE CHILD PLACING AGENCY, AND THAT PRIOR 439
OFFENSE RELATED TO THE OFFICER'S OR EMPLOYEE'S PERFORMANCE OR 440
ANTICIPATED PERFORMANCE OF OFFICIAL RESPONSIBILITIES OR DUTIES, a 441
felony of the fourth degree. 442

Sec. 5153.163. (A) As used in this section, "adoptive parent" 443
means, as the context requires, a prospective adoptive parent or 444
an adoptive parent. 445

(B)(1) If a public children services agency considers a child 446
with special needs residing in the county served by the agency to 447
be in need of public care or protective services and all of the 448

following apply, the agency shall enter into an agreement with the 449
child's adoptive parent before the child is adopted under which 450
the agency shall make payments as needed on behalf of the child: 451
452

(a) The adoptive parent has the capability of providing the 453
permanent family relationships needed by the child in all areas 454
except financial need as determined by the agency; 455

(b) The needs of the child are beyond the economic resources 456
of the adoptive parent as determined by the agency; 457

(c) The agency determines the acceptance of the child as a 458
member of the adoptive parent's family would not be in the child's 459
best interest without payments on the child's behalf under this 460
section. 461

(2) Payments to an adoptive parent under division (B) of this 462
section shall include medical, surgical, psychiatric, 463
psychological, and counseling expenses, and may include 464
maintenance costs if necessary and other costs incidental to the 465
care of the child. No payment of maintenance costs shall be made 466
under division (B) of this section on behalf of a child if either 467
of the following apply: 468

(a) The gross income of the adoptive parent's family exceeds 469
one hundred twenty per cent of the median income of a family of 470
the same size, including the child, as most recently determined 471
for this state by the secretary of health and human services under 472
Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 473
1397, as amended; 474

(b) The child is eligible for adoption assistance payments 475
for maintenance costs under Title IV-E of the "Social Security 476
Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 477

Payments under division (B) of this section may begin either 478
before or after issuance of the final adoption decree, except that 479

payments made before issuance of the final adoption decree may be 480
made only while the child is living in the adoptive parent's home. 481
Preadoption payments may be made for not more than twelve months, 482
unless the final adoption decree is not issued within that time 483
because of a delay in court proceedings. Payments that begin 484
before issuance of the final adoption decree may continue after 485
its issuance. 486

(C) If a public children services agency considers a child 487
residing in the county served by the agency to be in need of 488
public care or protective services and both of the following 489
apply, the agency may, and to the extent state funds are 490
appropriated for this purpose shall, enter into an agreement with 491
the child's adoptive parent after the child is adopted under which 492
the agency shall make payments on behalf of the child as needed: 493

(1) The child has a physical or developmental handicap or 494
mental or emotional condition that either: 495

(a) Existed before the adoption petition was filed; 496

(b) Developed after the adoption petition was filed and can 497
be attributed to factors in the child's preadoption background, 498
medical history, or biological family's background or medical 499
history. 500

(2) The agency determines the expenses necessitated by the 501
child's handicap or condition are beyond the adoptive parent's 502
economic resources. 503

Payments to an adoptive parent under this division shall 504
include medical, surgical, psychiatric, psychological, and 505
counseling expenses, ~~but shall not include maintenance costs~~ 506
including residential treatment. 507

(D) No payment shall be made under division (B) or (C) of 508
this section on behalf of any person twenty-one years of age or 509

older. Payments under those divisions shall be made in accordance 510
with the terms of the agreement between the public children 511
services agency and the adoptive parent, subject to an annual 512
redetermination of need. The agency may use sources of funding in 513
addition to any state funds appropriated for the purposes of those 514
divisions. 515

The director of job and family services shall adopt rules in 516
accordance with Chapter 119. of the Revised Code that are needed 517
to implement this section. The rules shall establish all of the 518
following: 519

(1) The application process for payments under this section; 520

(2) The method to determine the amounts and kinds of 521
assistance payable under this section; 522

(3) The definition of "child with special needs" for this 523
section. 524

The rules shall allow for payments for children placed by 525
nonpublic agencies. 526

(E) No public children services agency shall, pursuant to 527
either section 2151.353 or 5103.15 of the Revised Code, place or 528
maintain a child with special needs who is in the permanent 529
custody of an institution or association certified by the 530
department of job and family services under section 5103.03 of the 531
Revised Code in a setting other than with a person seeking to 532
adopt the child, unless the agency has determined and redetermined 533
at intervals of not more than six months the impossibility of 534
adoption by a person listed pursuant to division (B), (C), or (D) 535
of section 5103.154 of the Revised Code, including the 536
impossibility of entering into a payment agreement with such a 537
person. The agency so maintaining such a child shall report its 538
reasons for doing so to the department of job and family services. 539
No agency that fails to so determine, redetermine, and report 540

shall receive more than fifty per cent of the state funds to which 541
it would otherwise be eligible for that part of the fiscal year 542
following placement under section 5101.14 of the Revised Code. 543

Section 2. That existing sections 2151.141, 2903.13, 2903.21, 544
2903.211, 2903.22, and 5153.163 of the Revised Code are hereby 545
repealed. 546