

**As Passed by the Senate**

**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**

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**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.

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(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

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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  
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(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  
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(a) the agency or juvenile court with which the official in question serves or with which the employee in question is employed; 179  
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(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  
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**Sec. 2903.13.** (A) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn. 185  
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(B) No person shall recklessly cause serious physical harm to another or to another's unborn. 187  
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(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  
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(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  
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(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  
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(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  
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(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